



SUBJECT: Burlington Official Plan, 2020 targeted realignment exercise – workplan update 1

TO: Committee of the Whole

FROM: Community Planning Department

Report Number: PL-01-24

Wards Affected: All

Date to Committee: January 8, 2024

Date to Council: January 16, 2024

Recommendation:

Receive and file community planning department report PL-01-24: Burlington Official Plan, 2020 targeted realignment exercise – workplan update 1.

PURPOSE:

The purpose of this report is to provide an update on the Burlington Official Plan, 2020, (BOP, 2020) Targeted Alignment Exercise. This report is the first quarterly update on the status of the project. The report provides an update on the status of the BOP, 2020, Targeted Realignment Workplan items and identifies a draft engagement approach attached to this report as Appendix B.

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:

1.0 Official Plan, 2020, Targeted Realignment Exercise Project

The City is undertaking the Burlington Official Plan, 2020, Targeted Realignment Exercise as part of an overall strategy to align the policies of Burlington's Official Plan,

2020 (BOP, 2020) with the recent and ongoing changes to the Provincial and Regional policy frameworks that have taken place since the Regional approval of the BOP, 2020 in November 2020. This work will be supported by the detailed population and employment growth analysis work that will be undertaken as part of this exercise, and by a flexible and responsive engagement approach to ensure public involvement.

The BOP, 2020, Targeted Realignment Exercise Workplan has been developed to be flexible, and responsive to change as the Provincial and Regional policy framework evolves and as the OLT appeal process proceeds. The workplan is intended to be a living document that is subject to change and will be revisited as required. There are six key areas of the BOP, 2020, Targeted Realignment Workplan which are detailed in the Table in Section 3.0 of this report. The workplan is conceptually depicted in Appendix A of this report. The initial BOP, 2020 Targeted Realignment Exercise work plan focuses on realigning areas of the BOP, 2020 which:

- require local study and interpretation to implement changes to the policies to be consistent with or conform to upper tier plans and policies and provincial policy/plans and/or legislation;
- are in effect policies that require amendment to be consistent with, or conform to, upper tier plans and policies and provincial policy/plans and/or legislation;
- where changes to the policy framework result in policy changes that require broader public engagement and/or would otherwise be difficult to address through OLT modifications to the currently appealed policies.

The overall strategy also provides that areas of the Official Plan that are under appeal will be modified through the [Ontario Land Tribunal \(OLT\) appeals](#) process to ensure alignment with the recent policy changes.

Through Council approval of [Report PL-45-23 – Burlington Official Plan, 2020 Targeted Realignment Exercise – initial workplan](#) on July 11, 2023, Staff were directed to initiate the workplan for the BOP, 2020 Targeted Realignment Exercise. Since July, Staff have initiated the workplan, which has included:

- commencing the procurement process for the City's Population and Employment Growth Analysis work and finalizing the Terms of Reference based on the [Terms of Inquiry](#) reviewed by Council
- developing an Engagement Approach for the BOP, 2020 Targeted Realignment Exercise (Appendix B), and,
- bringing forth the first Official Plan Amendment to BOP, 2020 through [Report PL-53-23 – City-initiated amendments to Official Plan, 2020 and Zoning By-law 2020](#) to amend the Additional Residential Units (ARUs) policy framework in order to comply with the recent changes made to the Planning Act through Bill 23 and 97.

As the BOP, 2020 Targeted Realignment Exercise further evolves and develops, this work plan will occupy a significant amount of the Policy and Community team's time and resources over the coming period. Depending on the outcome of the City's Housing Accelerator Fund (HAF) application, there may be the need to reassess 2024 priorities for the Policy and Community team in order to play a larger role in supporting implementation of the Housing Strategy and HAF related housing initiatives.

OLT Appeals process and Conformity Exercise Update

While this report is focused on providing an update on the Targeted Realignment exercise, work continues with appellants to identify areas where no modifications, or only minor modifications to the BOP, 2020 would be required to bring policies into effect.

As outlined in staff report PL-45-23 "Burlington Official Plan, 2020 targeted realignment exercise – initial work plan", work is underway to develop a revised phasing approach for the hearing of appeals to the City's new Official Plan (case no. OLT-22-002219). At the Case Management Conference (CMC) held on July 7, 2023, the City requested that the Ontario Land Tribunal (Tribunal) dispense with or eliminate the existing Phasing Plan, which was Attachment 2 to the [Master Procedural Order](#) for OLT-22-002219.

Through this discussion, it was reiterated that there is still general agreement among parties that the concept of phasing makes sense. However, as the City refines the work plan for the Targeted Realignment exercise and determines which policies should proceed by way of statutory amendment vs. modification by the Tribunal, there will be impacts to the Phasing Plan. On this basis, the Tribunal agreed to dispense with the existing Phasing Plan and to revisit the possibility of a revised approach at the November 29, 2023 CMC. Notwithstanding this, the City indicated there are some phases which are not likely to be impacted, one of which is Phase 1C - Aggregates.

At the CMC held on November 29, 2023, the City advised the Tribunal that an updated version of the Burlington Official Plan, 2020 was circulated to all Parties on a without prejudice basis. The City indicated that it is preparing to submit a Motion for Partial Approval to the Tribunal on or before December 22, 2023. As part of the Motion, the City will identify policies of the Burlington Official Plan, 2020 that are currently in force and ask that the Tribunal confirm same. While it is the intent of the City to submit the Motion on consent of all Parties, counsel for the City suggested that dates be established for any potential Response Motion(s) by the Parties and subsequent Reply Motion(s) by the City. The Tribunal directed that the following procedural dates be set with respect to the City's Motion for Partial Approval:

- said Motion is to be filed with the Tribunal on or before December 22, 2023;
- response Motions, if any, are to be filed with the Tribunal on or before January 26, 2024; and

- reply Motions by the City, if any, are to be filed with the Tribunal on or before February 5, 2024.

Regarding a revised phasing approach, the City suggested that Tribunal-led mediation would be of assistance with respect to policies that may remain unapproved following the Tribunal's consideration of the anticipated Motion for Partial Approval. The City is specifically seeking one week of mediation in February or March of 2024, and suggested that Chapter 2 of the Burlington Official Plan, 2020 be the focus. In lieu of scheduling a further CMC or hearing dates at this time, the Tribunal directed that the City provide a status update no later than March 29, 2024, and request further CMC and/or hearing dates, as required.

2.0 Recent and Upcoming Changes to Planning Legislation, Regulation and Policy

The initial workplan report presented to CPRM on June 27, 2023, identified a wide range of changes to legislation, regulation and policy. The section below, outlines new details on changes previously highlighted and outlines new and upcoming changes.

Bill 23, More Homes Built Faster Act, 2022: Transition of Regional Planning Authority

Bill 23, More Homes Built Faster Act 2022, includes the transition of the Region of Halton to an "upper-tier municipality without planning responsibility". With this transition, the City of Burlington will become the planning authority and will inherit Halton Region's Official Plan. While Bill 23 has yet to receive Royal Proclamation, local municipalities alongside the Region of Halton continue to work together to prepare for this transition.

Halton Region has not completed its current Official Plan Review process in its entirety. Prior to the introduction of Bill 23, the Region had planned to proceed with a further amendment (ROPA 50) to address the remaining matters associated with its Municipal Comprehensive Review. The Region's [Summary of Approach to Transition of Regional Planning Services](#), presented to Regional Council on May 24, 2023, through [Report LPS34-23](#) outlines that since Royal Assent of Bill 23, the Region will no longer advance a further amendment on the basis that the local municipalities have agreed this work can be fulfilled once they have assumed the Regional Official Plan, following the Royal Proclamation of Bill 23.

Bill 97, Helping Homeowners, Protecting Tenants Act, 2023

On June 8, 2023, Bill 97 received Royal Assent. This omnibus bill proposes amending a number of existing statutes including the *Planning Act*. The changes include introducing new ministerial powers, appeal rights on the initial passing of an interim control by-law and amending the definition of the Area of Employment. These changes, coupled with changes within the proposed Provincial Planning Statement related to employment conversions, could result in lands that are currently designated as Employment in the City's Official Plan that contain an institutional or commercial use (including retail, office

or recreation uses) which would no longer be subject to the employment area policies of the PPS and would no longer require an employment conversion, as they are uses that are no longer permitted within the Employment Area. These changes will come into effect after the Bill receives Royal Proclamation, the timing of which is unknown at this time. This creates many uncertainties surrounding the timing of changes coming into effect.

Provincial Planning Statement, 2023

The proposed Provincial Planning Statement was released in April 2023 and is a draft document that would replace the existing A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 and the Provincial Policy Statement, 2020. When the proposed Provincial Planning Statement was released through [ERO posting no.019-6813](#) for public feedback, the Provincial Planning Statement was incomplete as Sub-Section 4.1 Natural Heritage had not yet been released. The Provincial Planning Statement was updated on June 16, 2023, to include the Natural Heritage policies. Further, the consultation period was extended on the Provincial Planning Statement until August 4, 2023. The commenting period is now closed. Staff [provided comments on the proposed Provincial Planning Statement](#) and Bill 97 in June 2023.

The Province has yet to provide information regarding the timing of the proposed changes to the PPS, Staff will continue to monitor changes to provincial policy in order that the BOP, 2020 Targeted Realignment Exercise remains flexible and responsive to any future changes.

Bill 150, Planning Statute Law Amendment Act, 2023

On October 23, 2023, the Minister of Municipal Affairs and Housing released a [statement](#) advising that the Minister would soon introduce legislation that will wind back the changes made to official plans and official plan amendments by the Minister of Municipal Affairs and Housing. This included the 45 changes made by the Minister to the Region's Official Plan through Regional Official Plan Amendment 49 (ROPA 49) in November 2022. In this statement, the Minister also advised that he would be seeking comments and information from the impacted municipalities, the commenting period is 45 days.

Then on November 4, 2023, the Minister of Municipal Affairs and Housing sent a [letter](#) to the heads of Council of the affected municipalities with further clarification. In that letter, the Minister clarified the intent to bring forward legislation that would rescind all modifications made by the Minister to Official Plans and Official Plan Amendments as soon as possible while still requesting that municipalities provide comments and information within 45 days. In the letter, the Minister requested that the heads of Council of the impacted municipalities submit feedback to the Ministry by December 7, 2023 and indicated the following: *"please rest assured that municipal feedback received during the 45-day window, and through consultation on the legislation will be carefully*

considered to determine the best approach for moving forward, including if further legislative step or the use of other provincial tools are required.”

Bill 150, Planning Statute Amendment Act, 2023 was then introduced on November 16, 2023, the Bill was also posted to [the ERO posting: 019-7885](#). Through [Staff Report PL-75-23](#), Council provided [a response](#) to the Province on December 7, 2023 and requested that the 45 modifications made to ROPA 49 be substantially maintained.

Bill 150, Planning Statute Law Amendment Act, 2023 was passed by Legislature on December 5, 2023. As of the date of writing this report, 43 of the 45 modifications have been rescinded through the passing of Bill 150, and Staff are awaiting further information from the Province.

3.0 BOP, 2020 Targeted Realignment Exercise Workplan Status and Updates

The status of the overall BOP, 2020 Targeted Realignment Exercise has been partially delayed due to uncertainties surrounding the timeline of many of the Province’s Bills receiving Royal Proclamation and the new PPS coming into effect. Staff have decided to go forward with the proposed work in order to remain on schedule as possible and continue to advance the Official Plan. The below table outlines the BOP, 2020 Targeted Realignment Exercise Workplan status.

Item	Description	Status
A	Local Growth Management Update – Growth Expectations to 2051 (staff and consultant led)	Underway: Growth Analysis procurement process to commence in January 2024. Completion of Population and Employment Growth Analysis Targeted 2024.
B	Urban Structure and Growth Framework Update (Staff led)	Pending: This work will commence upon the completion of Population and Employment Growth Analysis and delivery of Policy Directions.
C	Policy Analysis and Recommendations: Bill 23, Proposed PPS; Regional Official Plan (Staff led)	Delayed: Pending Royal Proclamation of Bill 23 and clarity on timing of PPS.
D	Local Directions: Draft ROPA 50 package Transition to Local Municipalities (Staff led)	Delayed: Pending Royal Proclamation
E	Other: Additional Residential Units (Staff led)	Complete: Official Plan Amendment No. 1
F	Future: 1200 King Road; Bronte Creek Meadows; Bridgeview	Underway

There has been an early focus of work within two of the six key areas of the workplan as detailed below, along with developing an engagement approach for the exercise.

A) Local Growth Management Update – Growth Expectations to 2051 (staff and consultant led)

The forecasted population and employment growth allocated to the City of Burlington to 2031 in the Regional Official Plan and reflected in the BOP, 2020 came into effect by virtue of the *Planning Act*, which limits appeal rights to these policies. At this time, while the Minister has rescinded and reimplemented (with limited exceptions) the Regional Council adopted version of ROPA 49, the City is awaiting the next steps in the process based on the Mayor's response to the Minister regarding the ROPA 49 amendments. An amendment will be required if the Mayor's comments are addressed, in order to align with not only the shift to a planning horizon of 2051, but also the Regional Structure and Urban Structure changes and the impact of these significant changes on the assumptions that informed the development of the BOP, 2020 and the Regional Official Plan Review. While there remains some uncertainty on the timing and realization of the changes related to Bill 23, Bill 97, the proposed Provincial Planning Statement and Bill 150, it is understood that these documents have changed or have the potential to further alter, how Burlington must approach planning for population and employment growth. The groundwork for the local growth management update includes the preparation of the detailed population and employment growth analysis. The local growth management update will include the development of Policy Directions to inform future changes to the Official Plan, guided by the principles outlined in Report PL-45-23 – Burlington Official Plan, 2020 Targeted Realignment Exercise – Initial Work Plan.

Population and Employment Growth Analysis

The above work includes consultant support for the preparation of a detailed growth analysis, using best practices and building on existing technical efforts as set out in the [Appendix D: Population and Employment Growth Analysis Proposed Terms of Inquiry](#).

The purpose of the Population and Employment Growth Analysis work is to provide a single, reliable, up-to-date source of population and employment growth analysis data up to 2051 and beyond. The new growth analysis study will consider the new and changing planning framework in Ontario, be the most up-to-date data with the local Burlington context, with flexibility and adaptability of potential future policy changes, and will assist the City with undertaking its new role managing growth upon Royal Proclamation of Bill 23.

Currently, Staff are working with Procurement Services in order to commence the procurement process in early Q1, 2024.

Additions to the Workplan: Area of Employment Official Plan Amendment:

Through Bill 97, Helping Homebuyers, Protecting Tenants Act, 2023, the Province amended the definition of Area of Employment in the *Planning Act*. Once Bill 97 receives Royal Proclamation, the new Area of Employment definition will exclude institutional and commercial uses, including retail and office uses that are not associated with a primary permitted use, from Areas of Employment.

The Area of Employment changes to the *Planning Act* also include a transition provision that would permit municipalities to implement Official Plan policies to permit the continuation of an existing use that is now excluded from the definition of Area of Employment, within an employment area provided that the use was lawfully established on the parcel of land before the day of Royal Proclamation.

Staff are exploring the opportunity for a statutory amendment to the BOP, 2020 which would amend the definition of Employment Area to align with the Area of Employment definition and implement a new policy that would authorize the continuation of lawful institutional and commercial uses within the existing Areas of Employment. The proposed amendments would maintain the Areas of Employment lands similar to as they exist today.

E) Other: Additional Residential Units Official Plan Amendment (Staff led)

Additional Residential Units Official Plan Amendment 1, Burlington Official Plan, 2020

The Additional Residential Units policies came into effect with the Regional approval of the BOP, 2020 by virtue of the *Planning Act*. The *Planning Act* limits appeal rights to the Additional Residential Unit policies.

Over the course of 2022 and 2023, through Bill 23, More Homes Built Faster Act, 2022 and Bill 97 Helping Homebuyers, Protecting Tenants Act, 2023, the Province of Ontario amended the Planning Act to expand permissions for additional residential units. The changes included allowing two ARUs on an urban residential lot with a detached dwelling, semi-detached dwelling or townhouse, for a total of three units as-of-right on urban residential lots.

To comply with these provincial changes, Staff brought forth a City-initiated OPA and concurrent Zoning By-law Amendment, through staff report [PL-53-23](#), to update the ARU policies, which was approved by Council on September 26, 2023.

On October 17, 2023, to help with more housing options and supply throughout the City of Burlington, City Council approved [a motion](#) to declare its intention to allow four residential units as-of-right. This direction supports the City's [Housing Strategy](#) as well as the City's application to the Federal Housing Accelerator Fund, and builds upon the City's aforementioned ARU OPA and ZBA to permit three residential units as-of-right.

The motion memorandum directs Staff to engage with the community to implement four units as-of-right and other actions of the Housing Strategy. Residents will be invited to join Staff in the work to change policies and regulations to allow for four units per lot. This work is underway in collaboration with the New Zoning By-law Team.

4.0 Next Steps January 2024 to March 2024

Staff plan to deliver the following in advance of the next update report:

- complete Growth Analysis procurement process and commence the Growth Analysis work;
- launch the project Getinvolved webpage;
- explore area of employment Official Plan Amendment;
- engage with community to implement four residential units as of right and other actions of the Housing Strategy; and
- support the work of the NZBP project.

5.0 Project Connections

Vision to focus update

The emerging work on defining Vision to Focus has identified a clear connection to the complete communities theme and this workplan. As both move forward, the workplan for the Targeted Realignment exercise will emphasize opportunities to connect to the Vision to Focus update and embed such connections where appropriate.

New Zoning By-law Project

The New Zoning By-law Project (NZBP) is focused on comprehensively updating the City's Zoning By-law to implement the policies of the BOP, 2020. Through approval of Report PL-62-23 on Dec. 12, 2023, Council endorsed a revised work plan for the NZBP in response to the continued evolution of BOP, 2020 which entails completing the project in phases. Each phase of the project will be focused on preparing one or more sections of the new Zoning By-law, with Phase 1 focusing on Residential Zones. The Policy and Community team will continue to work closely with the NZBP Team to ensure alignment with timing of the NZBP phases and timing of the Targeted Realignment Exercise and OLT appeals process. The BOP, 2020 Targeted Realignment Exercise Team and NZBP Team will be bringing forward quarterly updates that correspond and together will provide a comprehensive update on the status of projects.

Major Transit Station Area (MTSA) - Area Specific Plans Project and Community Planning Permit By-law

In June, 2023, through report PL-40-23, Council directed staff to prepare a Community Planning Permit By-law for consultation in the Fall of 2023 at the same time as the release of a draft Official Plan Amendment to implement the area specific plans for the

City's three Major Transit Station Areas. Through report PL-59-20, a statutory public meeting was held on October 31, 2023 on draft Official Plan Amendment 2 and a draft Community Planning Permit By-law. Staff are targeting bringing forward a recommendation report to Council for both the Official Plan Amendment and Community Planning Permit System By-law in Q1 2024. If approved, the OPA and Community Planning Permit System By-law will implement the vision for accommodating growth in the City's strategic growth areas,

Strategy/process/risk

Changing Parameters

There are still a significant number of variables and inputs that are changing and uncertain at this time. Planning staff will continue to work with Legal to try to obtain approval of as much of BOP, 2020 as possible. The workplan will continue to be a living document revisited where required and may be informed by future changes that are not yet known. Revisions and opportunities for reprioritization will be identified by staff and communicated to Council in a timely manner. Staff remain committed to bringing forward a quarterly update report on the BOP, 2020 Targeted Realignment Exercise that corresponds with the New Zoning By-law project.

Options Considered

A wide range of issues were considered in the development of the engagement plan for BOP, 2020 Targeted Realignment Exercise, as well as the strategy for bringing forward the OPA for Areas of Employment. Staff note that a significant amount of uncertainty remains in relating to the timing and nature of future planning framework modifications already initiated by the Province, or that may be initiated in the future.

A range of approaches were considered for the Engagement Approach. While the approach differs from the traditional Engagement Plan with Engagement Milestones, the proposed approach to engagement is the most flexible in order to allow staff to effectively navigate the uncertainties surrounding the timing and realization of provincial policies and ensure opportunities for engagement are taken when they may arise during the exercise. The flexible approach will also allow staff to create additional comprehensive engagement plans for specific components of the BOP, 2020 Targeted Realignment Exercise, where there is opportunity for significant public engagement.

Financial Matters:

N/A

Climate Implications:

Not applicable.

Engagement Matters:

Targeted Realignment Engagement Approach

At the [July 11, 2023 Council Meeting](#), Council directed City Staff to develop an engagement plan for the BOP, 2020 Targeted Realignment Exercise. The proposed Engagement Approach is attached as Appendix B.

The Engagement Approach for the BOP, 2020 Targeted Realignment Exercise provide an approach to engagement that is intended to be flexible and responsive to ongoing changes to provincial and regional policy frameworks while providing clarity and accountability related to how engagement will take place over the course of the BOP, 2020, Targeted Realignment Exercise.

The purpose of the engagement approach is to identify an approach for how and when engagement will take place over the course of the project, identifying when an engagement plan is needed for more intensive engagement and when an informational approach is more appropriate. It outlines the key engagement commitments that will guide the engagement process.

Throughout the BOP, 2020 Targeted Realignment Exercise, Staff are committed to being transparent about where and when the public can influence the project. Due to the nature of this project, there will be times when the engagement level will fall closer to the “involve/collaborate” side of the spectrum and times when it will fall closer to the “inform” side of the spectrum. Staff are committed to providing detailed information to ensure that the public and all interested and affected parties have access to the most up to date project information and outcomes and are included in the dialogue. When the project reaches a stage that can be influenced by the public, Staff will ensure engagement takes place and detailed engagement plans are prepared as required to lead this work.

The engagement approach is based on the [International Association of Public Participation \(IAP2\)’s Public Participation Spectrum](#) , and in alignment with [Burlington’s Community Engagement Charter](#). Staff welcome any feedback from Council on the BOP, 2020 Targeted Realignment Exercise Engagement Approach and are committed to working within the principles set out in the approach.

Staff also attended the Food for Feedback Event on September 17, 2023. The intent of Staff attending the Food For Feedback Event was to provide the public with general background information on the policy framework changes and background information

on the Official Plan, but did not seek feedback on the BOP, 2020 Targeted Realignment Exercise.

Staff are in the process of creating a getinvolved webpage for the BOP, 2020 Targeted Realignment Exercise and encourage all those interested to sign up to getinvolved to stay up to date.

Conclusion:

This progress update report on the BOP, 2020 Targeted Realignment Exercise presents an overview of work completed thus far, and project deliverables staff are working to complete in the first quarter of 2024. It provides the engagement approach for the exercise, the next steps for the growth analysis work, and a review of upcoming work. The workplan will continue to evolve in response to inputs from a variety of sources including the BOP, 2020 OLT process and policy changes from the Province, among other inputs.

Respectfully submitted,

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Appendices:

- A. BOP, 2020 Targeted Realignment Exercise Initial Work Plan
- B. Engagement Approach

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.