



SUBJECT: Draft Official Plan and Zoning By-law Amendments to increase housing options

TO: **Committee of the Whole**

FROM: **Community Planning Department**

Report Number: PL-92-24

Wards Affected: all

Date to Committee: December 3, 2024

Date to Council: December 10, 2024

Recommendation:

Direct the Director of Community Planning to consider Council, agency, and community feedback received as part of this statutory public meeting, prior to bringing forward a subsequent staff report recommending adoption of Official Plan Amendment No. 3 and a Zoning By-law Amendment in January 2025.

PURPOSE:

Vision to Focus Alignment:

- Designing and delivering complete communities
- Providing the best services and experiences
- Protecting and improving the natural environment and taking action on climate change
- Driving organizational performance

Executive Summary:

The Draft Official Plan Amendment and Zoning By-law Amendment attached as Appendix A and B respectively to this report, implement phases 1 and 2 of the Official Plan Amendment to Increase Housing Options Study.

At the October 17, 2023 Meeting of Council, City Council declared its intention to allow four units as-of-right and to implement the other actions identified in the Housing Strategy and unanimously approved Motion Memorandum [ADM-17-23](#).

This report summarizes the work undertaken to implement phases 1 and 2 of the Official Plan Amendment to Increase Housing Option Study, as outlined in Staff Report PL-66-24 on at the Committee of the Whole on September 9, 2024.

Phase 1 seeks to permit four units as-of-right through the Additional Residential Unit policies contained within the BOP, 2020 in order to meet the requirements of the Housing Accelerator Fund. Phase 2 proposes modifications to the policies of the Residential Neighbourhood Area, including the Neighbourhood Character Area policies of the BOP, 2020 to update these policies to consider expanded permissions and consider built form instead of density.

This report also provides an overview of the engagement undertaken to date and feedback received, contained in a Feedback Report attached as Appendix C. Any additional feedback received at the Statutory Public Meeting on December 3, 2024, or over the course of December 2024 and January 2025 will be used to refine and finalize the Draft OPA and ZBA prior to Council's consideration of a recommendation report to be brought forward to the Committee of the Whole in January 2025.

Background and Discussion:

Project Background – Official Plan Amendment to Increase Housing Options Study

The Official Plan Amendment to Increase Housing Options Study has been underway since April 2024 through the Burlington Official Plan, 2020 Targeted Realignment Exercise in close alignment with Phase 1 of the New Zoning By-law Project (NZBP). For more details on the project please refer to [PL-66-24](#).

The objective of the Official Plan Amendment to Increase Housing Options Study is to identify policy tools that support gentle ground-oriented intensification that considers the context and character of Burlington's Neighbourhoods while providing opportunities to increase the diversity of housing options to meet the needs of all residents at all stages of life and at all income levels.

This project focuses on using planning implementation tools such as the [Official Plan](#), and [Zoning By-law](#) to put into place a policy framework and regulations to help support a variety of housing options within the City's Urban Area, with a particular focus on the City's neighbourhoods.

A Note on Proposed Changes to Ontario Regulation 299/19 – Additional Residential Units

In June 2024, to further support the implementation of additional residential units, Bill 185, *Cutting Red Tape to Build More Homes Act, 2024* made further changes to the *Planning Act* to provide the Minister with broader regulation-making authority to align municipal by-laws in support of building more additional residential units.

Then, on Sept. 23, 2024, the Province posted the proposed amendments to O. Reg 299/19 with a 30-day comment period, closing on Oct. 23, 2024. The proposed amendments to O. Reg. 299/19 were posted through [ERO posting #019-8369](#) and propose that the regulations in O. Reg. 299/19 would override a number of regulations in local municipalities zoning by-laws to support the creation of additional residential unit policies. For example, one proposed change is to allow a maximum lot coverage of at least 45 per cent for all buildings and structures on parcels with additional residential units.

Planning Staff provided a comment response through the ERO posting #019-9210 as detailed in the letter attached to [Council Information Package](#) dated Oct. 25, 2024. As of the date of writing this report, no response from the Province has been received and there are no additional details regarding the status or timing of the proposed changes to O. Reg. 299/19.

Status of the Policies of the Burlington Official Plan, 2020

A significant portion of the Burlington Official Plan was appealed in 2020 and a number of policies are subject to broad appeal and therefore not in effect. An OLT decision was issued on January 4, 2023, confirming that some portions of the new Official Plan came into effect on December 22, 2020. This means that the Plan has legal status and can be amended in accordance with the *Planning Act*. Since January 2023, a number of additional policies have been brought into effect through approved settlements and a Partial Approval that was issued by the OLT in April of 2024 including the policies identified in Draft Official Plan Amendment No.3, attached to this report. All of these policies are currently in effect and therefore may be amended in accordance with Sections 16,17 and 21 of the *Planning Act*.

OPA 1, an amendment to the new Burlington Official Plan which implemented the changes to Additional Residential Unit policies introduced through Bill 23, is in full force and effect following its adoption by Council in September 2023. At an OLT Case Management Conference (CMC) held on July 7, 2023, it was identified by the City that, since the release of ROPA 48 & 49 and Bill 23, both legal and policy changes have occurred which have conformity requirements. It was noted that these changes impact the City's new OP and have resulted in the need for the City to reexamine portions of

the Plan. Since July 2023, additional changes have been made to the provincial policy framework, including the new PPS 2024 coming into effect on October 20, 2024.

Draft Official Plan Amendment No.3

Draft Official Plan Amendment No. 3 (Appendix A) implements Phase 1 and 2 of the Official Plan Amendment to Increase Housing Options Study by proposing amendments to the Burlington Official Plan, 2020 to:

- Amend the policies for Additional Residential Units in order to permit three Additional Residential Units per urban lot, for a total of four units permitted per urban lot as of right.
- Amend the policies of the Official Plan in order to support ground-oriented intensification that considers the context and character of Burlington's Established Neighbourhoods while providing opportunities for more diverse housing options to meet the needs of all residents at all stages of life and at all income levels.
- Establish built form as a metric used to describe the degree of development within the Residential Neighbourhood Areas, supported by other policy guidance to be implemented through the Zoning By-law.
- Implement permissions to allow for more low-rise ground-oriented housing options including duplex, triplex and fourplexes within the Residential Neighbourhood Areas.

The proposed amendments will address the HAF Action Plan Initiative 3 and assist in addressing Actions 6 and 7 of the Housing Strategy.

Amendments to the Official Plan 2020, Related to Additional Residential Units (Phase 1)

The draft OPA No. 3 (Appendix A) proposes to amend Section 8.7.2 Additional Residential Units of the BOP, 2020 in order to permit three (3) additional residential units per parcel of urban residential land where a single-detached dwelling, semi-detached dwelling, townhouse unit or street townhouse unit is permitted, for a total of up to four units as-of-right. This is one additional residential unit more than is currently permitted. The amendment also proposes to add additional policies relating to ensuring that the Zoning By-law establishes appropriate parking standards for properties with additional residential units, to address concerns regarding parking that were brought forward throughout the public engagement process.

The proposed approach of permitting four units as-of-right through the additional residential unit policies will, in the opinion of Planning Staff, result in a continuation of the existing physical character within the City's neighbourhoods by requiring the four

units per lot to meet the policies and regulations for the principal dwelling building envelope such as yard requirements, save and except for total permitted lot coverage as proposed to be permitted by under O. Reg. 299/19 as described above.

Proposed Amendments to the ARU Regulations in Burlington's Existing Zoning – Phase 1

The City's existing Zoning By-law (Zoning By-law 2020, as amended) currently permits up to two additional residential units (previously referred to as an "accessory dwelling unit" or "ADU") on a detached, semi-detached or townhouse lot that is served by municipal sewage and water services. Both ARUs may be contained within the principal building. Alternatively, one ARU may be contained in a detached accessory building on the same lot as the principal building, and the other ARU may be contained within the principal building.

The proposed amendments to the existing Zoning By-law (Appendix B) will ensure alignment with the Official Plan policies, as proposed to be amended, by increasing as-of-right the number of additional residential units to three from two in addition to the principal dwelling unit (and allowing four residential units per property as-of-right) on all residential lands in the settlement area on full sewer and water services.

Reduced Minimum Parking Requirements for ARUs

The existing Zoning By-law requires that a minimum of two parking spaces be provided for each principal dwelling unit plus a minimum of one parking space be provided for each ARU. For example, for a property to have three ARUs, five parking spaces total would be required. Five parking spaces would require a total area of 82.5 m² (approximately 900 square feet or the size of a 2-bedroom dwelling unit). This presents a barrier due to limited space on a residential property to achieve competing objectives of providing space for housing, protecting existing trees, usable outdoor amenity space, and cars.

Staff has heard from residents that the City's existing parking requirement of one space per additional residential unit is considered a barrier to their ability to add an ARU on their property. To remove this barrier and encourage the creation of more developable area for housing rather than parking, staff is proposing a reduction in the number of parking spaces required for an ARU. If approved, no parking space is required for one ARU and one additional parking space is required for the second or third ARUs. For example, instead of five parking spaces total being required for a detached dwelling with three ARUs, three parking spaces total would be required.

This recommended approach is intended to be supported through the creation of a city-wide on-street residential parking permit system. Staff are targeting Q1 2025 to bring forward a report considering the creation of a city-wide on-street parking permit system.

Other Regulations

In addition to the proposed regulations discussed above, the amendment also includes removing or adding requirements to enable conversion of existing buildings into ARUs and by doing so, eliminating the need to obtain approval such as a minor variance.

ARUs will be subject to all other existing performance standards found in the Zoning By-law for the principal building or accessory building such as height and setbacks.

It should be noted that it may not be feasible for all properties to accommodate three additional residential units in compliance with the proposed parking standards and other performance standards. For example, it is expected that additional residential units will be less common on smaller lots or lots with semi-detached dwellings and townhouses due to the physical space required to house cars.

Through Phase 1 of the NZBP, the project team is reviewing the City's residential zones and will explore further opportunities for gentle intensification. This includes further study and consideration of the proposed amendment to O. Reg. 299/19 for permitting additional residential units beyond the current performance standards found in the City's existing zoning by-law, and as proposed to be amended above.

Official Plan Amendments Related to the Residential Neighbourhood Area (Phase 2)

Council's motion also directs staff to implement actions identified in the Housing Strategy including implementing opportunities to increase housing options available through the Residential Neighbourhood Area policy framework.

The draft Official Plan Amendment proposes changes to the policies of the Residential Neighbourhood Area and its three existing designations in order to set the initial framework to increase flexibility to allow for more housing options in the City's neighbourhoods in alignment with the Actions of the City's Housing Strategy.

Main Changes:

- Focus on built form and scale, not density, as the defining feature for each designation, in order to provide a clear understanding of what is expected in each designation.
- Renaming existing designations to provide clarity about the built form expectations.
- Focus on flexibility to allow for more housing options in neighbourhoods.
- Focus on compatibility and reinforcing the existing built form within our neighbourhood while providing opportunities for flexibility to reduce barriers to increased housing options.

- Removal of Neighbourhood Character Area Policies

Strategy/process/risk

Housing Accelerator Fund Action Plan Requirements

On January 15, 2024, Infrastructure Canada and CMHC announced the City of Burlington's application was approved resulting in the City receiving \$21,156,248.60 in funding to incentivize 618 units. Council's October 2023 motion directly supported the City's successful application to the Housing Accelerator Fund and falls under Initiative 3 of the Housing Accelerator Fund (HAF) Action Plan. Satisfying Council's motion and delivery of all of the initiatives of the HAF Action Plan in the timing identified is required in order to retain the City's HAF funding. The implementation period is 2024 for Initiative 3, which includes implementing four units as-of-right. This project aims to meet this deadline in order to ensure the City is able to retain the full funding awarded by CMHC. The Official Plan Amendment also aims to address increasing housing options and flexibility within the residential neighbourhood area policies, which, seek to reduce barriers to increasing housing options, including missing middle housing in alignment with the requirements of the HAF its housing targets.

Amendment to the Existing Zoning By-law (By-law 2020, as amended)

To meet the HAF timeline requirements for permitting four units as-of-right, an amendment to the existing Zoning By-law (By-law 2020, as amended) is recommended in order to align the City's ARU regulations with the new policy framework proposed by Draft OPA 3. Given scheduled delivery of Phase 1 – Residential Zones of the new Zoning By-law (Targeted for Q2, 2025), staff have elected to set initial regulations to support the development of ARUs through the City's existing Zoning By-law. The NZBP team will continue to monitor the efficacy of the regulatory framework for ARUs and will work to refine performance and parking standards to be delivered as a part of Phase 1 of the NZBP to further reduce barriers to ARUs in the City's Neighbourhoods.

Recommended Modifications to BOP 2020 Policies Appealed to the OLT

While changes to appealed policies typically proceed by way of OLT modification, in some limited and specific circumstances, amendments may also be brought forward to withdraw policies. There are a small number of policies currently subject to appeal that have been identified for modification or withdrawal through Phase 2. These policies fall into the two categories listed below. These proposed changes cannot be implemented through an Official Plan Amendment. The City's current approach to advancing the appealed portions of the BOP, 2020 is through modifications through the OLT process. In the recommendation report targeted for January 2025, staff will be seeking direction from Council to move forward with these modifications through the OLT process.

1. Policies recommended for removal from the BOP 2020
 - 8.3.6: Neighbourhood Character Areas
2. Schedules requiring modification to reflect the proposed amendments to the in-effect policies of the BOP 2020:
 - Schedule C – Land Use Urban Area
 - Schedule E – Land Use Uptown Urban Centre
 - Policy cross references and renumbering to policies currently appealed

Additionally, there are a number of policy cross references and renumbering of policies currently appealed. In this case, the remaining matters of conformity will be addressed through the City's Official Plan realignment exercise, as noted through Report [PL-45-23](#). In addition to matters of conformity, the realignment will address housekeeping matters such as terminology changes and cross-references throughout other sections of the Official Plan.

Options Considered

Staff report PL-66-24 included the policies of the Downtown Urban Centre's Low-Rise Neighbourhood Precinct Designation for review as a part of Phase 2 of the project work to explore opportunities for increased flexibility and housing options. Staff have elected to focus on the Residential Neighbourhood Area as the primary focus of Phase 2 as the Residential Neighbourhood Area covers a substantial geography of the City of Burlington and its policies are largely in effect. Staff intend to move this work into Phase 3 of the project.

Financial Matters:

Staff have prepared a detailed Engagement Plan to deliver on the objectives of the Official Plan Amendment to Increase Housing Options Engagement Study to an upset limit of \$10,000 to deliver the engagement plan.

Total Financial Impact

Source of Funding

The Housing Accelerator Fund was identified as the funding source for the delivery of the engagement throughout the project.

Other Resource Impacts

Climate Implications:

On April 23, 2019, Burlington's City Council unanimously passed a motion to declare a climate emergency. This work provides innovative solutions to address local housing issues while making better use of existing infrastructure and services through the provision of additional residential units and more low-rise ground-oriented housing options with more diverse options for alternative modes of transportation, to support the provision of a wider range of housing options and minimize impacts on the environment.

Engagement Matters:

Engagement has been a central element to Phases 1 and 2 of the Official Plan Amendment to Increase Housing Options Project. The following provides a high-level summary of the engagement that has taken place and has informed the proposed draft Official Plan Amendment No. 3 and the draft Zoning By-law Amendment.

The engagement was informed by the Official Plan Amendment to Increase Housing Options Engagement Plan.

Engagement took place between May and October 2024 and resulted in 560 survey responses over the course of 2 online surveys, 4 Open Houses (2 virtual and 2 in-person), engagement with the Burlington Youth Student Council, a tradeshow booth at the May 2024 Mayor's Speaker Series Event, Pop-up engagement events at the Burlington Centre Lions Farmer's Market and Appleby Line Street Festival and participation at Food for Feedback; as well as a variety of meetings with the Official Plan Amendment to Increase Housing Options Steering Committee. It also included posts on the Housing Strategy Get Involved page, email correspondence with members of the public and engagement with the development community.

For details on the engagement tactics used, the feedback collected and how it informed the draft Official Plan Amendment to Increase Housing Options please see the feedback report attached as Appendix C of this report.

The Official Plan Amendment to Increase Housing Options Feedback Report, attached as Appendix C to this report also provides an overview of the engagement undertaken and feedback received and how it did or did not influence the Draft Official Plan Amendment and Draft Zoning By-law amendment. Any additional feedback received at the Statutory Public Meeting on December 3, 2024, or over the course of December 2024 and January 2025 will be used to refine and finalize the Draft OPA and ZBA prior to a recommendation report being brought forward to the Committee of the Whole for Council's consideration in January 2025.

Conclusion:

The Draft Official Plan Amendment and Zoning By-law Amendment attached as Appendix A and B respectively implement phases 1 and 2 of the Official Plan Amendment to Increase Housing Option Study. This approach was designed to ensure that the City is able to meet the requirements set out in Action 3 of the Housing Accelerator Fund Action Plan, while working to identify amendments to the BOP 2020 that would support increased opportunities and limit barriers to increasing housing options in order to satisfy Council's motion and to further the objectives of the City's Housing strategy, Housing Pledge, Housing Accelerator Fund Action Plan and Strategic Plan

Respectfully submitted,

Alexandra Mathers, RPP, MCIP
Planner, Planning Policy
905-335-7777 ext. 7556

Kate Hill-Montague, RPP, MCIP
Supervisor, Planning Policy
905-335-777 ext. 7508

Appendices:

- A. Proposed Official Plan Amendment No. 3
- B. Proposed Zoning By-law Amendment XX
- C. Feedback Summary Report

Notifications:

Ministry of Municipal Affairs and Housing- Municipal Services Offices- Central Region –
Hannah Evans and Laurie Miller

Report Approval:

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Commissioner Legal and Legislative Services/City Solicitor.