



OAKVILLE

REPORT

Planning and Development Council

Meeting Date: October 15, 2024

FROM: Planning and Development Department

DATE: October 1, 2024

SUBJECT: Public Meeting and Recommendation Report – Town-initiated Official Plan Amendments to preserve the town’s protected employment areas per subsections 1 (1.1) and (1.2) of the Planning Act (File No. 52.57.03)

LOCATION: Town-wide

WARD: Town-wide . Page 1

RECOMMENDATION

1. That comments from the public with respect to the town-initiated official plan amendments (File No. 52.57.03) be received.
2. That Council approve the proposed town-initiated official plan amendments to preserve the town’s protected employment areas per subsections 1 (1.1) and (1.2) of the *Planning Act* (File No. 52.57.03).
3. That By-law 2024-143, a by-law to adopt OPA 68 to the Livable Oakville Plan, be passed.
4. That By-law 2024-144, a by-law to adopt OPA 332 to the North Oakville East Secondary Plan (1984 Oakville Official Plan), be passed.
5. That By-law 2024-145, a by-law to adopt OPA 333 to the North Oakville West Secondary Plan (1984 Oakville Official Plan), be passed.
6. That notice of Council’s decision reflect that Council has fully considered all written and oral submissions relating to this matter and that those comments have been appropriately addressed.

KEY FACTS

The following are key points for consideration with respect to this report:

- The province introduced the *Helping Homebuyers, Protecting Tenants Act* (Bill 97) on April 6, 2023. Bill 97 proposed various amendments to statutes with respect to housing and development including a new definition to be added to the *Planning Act* for “area of employment” that focuses on traditional employment uses such as manufacturing and warehousing, while excluding certain uses long considered a part of protected employment areas: institutional and commercial uses, including office and retail. A transition provision under subsections 1 (1.1) and (1.2) was also provided for the new definition. The Bill received Royal Assent on June 8, 2023. The effective date for the new definition, being October 20, 2024, was recently proclaimed on August 20, 2024.
- The transition provision under subsections 1 (1.1) and (1.2) of the *Planning Act* is for the new definition for “area of employment”. It allows municipalities to have policies in an official plan that authorize after October 20, 2024, the continuation of lands within employment areas as protected, meaning that requests to convert lands to another land use designation must meet specific tests, and that appeals on related decisions of council are restricted. This applies even if parcels of lands within those employment areas are occupied by a use that is excluded from the new definition if:
 - official plan policies do not authorize within an employment area a new use that is excluded from the definition on or after the effective date, and,
 - the use was lawfully established on the parcel of land before the effective date.
- On the same day Bill 97 was introduced, the province provided for review and comment an updated, proposed Provincial Planning Statement (PPS) on April 6, 2023. The proposed PPS 2023 contained employment area policies and a definition for “employment areas” that corresponded to the proposed, new *Planning Act* definition for “area of employment”.
- On August 20, 2024, the province provided a final Provincial Planning Statement (PPS 2024) and announced that it will come into effect on October 20, 2024. The timing of the PPS 2024 effective date is coordinated with the effective date for the new definition for “area of employment”. Now that final provincial policies have been provided, the town may commence work towards implementing the provincial direction regarding employment.
- Prior to completing an employment area review and subsequent comprehensive official plan and zoning by-law amendments, given the

proposed changes, it is necessary to take steps to preserve the town’s employment areas in order to ensure that significant changes to the town’s employment areas are only through a comprehensive process that ensures the adequate supply of employment lands for the long term. Prior to the effective date, or as soon as possible, it is necessary to put in place policies for the town’s employment areas that:

- ensure that after October 20, 2024, the town’s official plans restrict uses that are excluded from the new definition for “area of employment”; and
 - authorize the continuation of lands occupied by a use that is excluded from the new definition for “area of employment” to continue as a protected employment area provided that the use was lawfully established before October 20, 2024.
- The proposed OPAs intend to preserve the existing employment areas until such a time that the town completes an employment area review that incorporates significant public and stakeholder consultation, to determine a long-term approach for the town’s employment areas and how the town will implement the provincial direction.
 - Many parcels of land within the town’s existing employment areas contain uses that are excluded from the new definition of “area of employment”, including stand-alone offices, institutional uses, public service facilities and service commercial and retail. These uses had been permitted, encouraged and protected within employment areas under previous provincial policy planning frameworks, which guided complete communities and diversity of employment uses. The presence of these excluded uses puts the town’s employment areas at risk of being reduced through individual, piecemeal processes unless action as proposed in the subject OPAs is taken.

BACKGROUND

On April 6, 2023, the province introduced the *Helping Homebuyers, Protecting Tenants Act* (Bill 97) which proposed changes to a number of different Acts, including repealing the definition of “area of employment” in the *Planning Act* and replacing it with a new definition.

While Bill 97 received Royal Assent on June 8, 2023, the date the new definition would come into effect was yet to be named by proclamation of the Lieutenant Governor.

On August 20, 2024, the province announced that the final PPS 2024, and new definition for “area of employment” would come into effect in two months, on October 20, 2024.

The transition provision for the change in definition for “area of employment” under subsections 1 (1.1) and (1.2) of the *Planning Act* allow municipalities to have policies in their official plans that allow employment areas to continue as an “area of employment”. This applies even if lands are occupied by uses excluded from the new definition if the use was lawfully established before the effective date and if official plan policies do not authorize within those employment areas uses that are excluded from the new definition on or after the effective date.

The proposed OPAs are before Council for consideration as early as possible, given the final employment area policies under the PPS 2024 were only provided on August 20, 2024. It was deemed necessary to wait for the final PPS prior to taking even an interim measure such as is provided under the subject draft OPAs in order to avoid adjustments to or duplication of implementation work, due to a change in provincial direction.

Town staff has reviewed and commented on previous versions of the PPS. Staff provided comments to the province through the environmental registry postings, ERO No. 019-6821 and ERO No. 019-8365.

In both of these comment letters to the province, staff advised of a need to undertake a comprehensive review of its employment areas in order to implement a new provincial direction regarding employment once that is provided in a final version, highlighting the need for a confirmed direction and time for a comprehensive response.

Now that staff is aware of the final PPS 2024 policies related to employment areas, and that there are only two months before the definition and policies come into effect, staff has prepared the subject OPAs to ensure a transition period that preserves the town’s employment areas as protected until a comprehensive review can be completed and the provincial direction implemented.

Current and Pending Definitions for “area of employment”

The new definition for “area of employment” is a significant change to how municipalities, including Oakville, have managed their employment areas in the past.

The current, in-effect definition in the *Planning Act* under subsections 1 (1) and (5) defines “area of employment” as,

(1) an area of land designated in an official plan for clusters of business and economic uses including, without limitation, the uses in subsection (5), or as otherwise prescribed by regulation.

(5) the uses referred to in the definition of “area of employment” in subsection (1) are: a) manufacturing; b) warehousing uses; c) office uses; d) retail uses that are associated with uses mentioned in clauses (a) to (c); and e) facilities that are ancillary to uses mentioned in clauses (a) to (d).

Based on the current definition, the lands that meet the *Planning Act* definition of “area of employment” and are therefore considered protected employment areas are those lands designated as:

- Employment Area designations of Office Employment, Business Employment, Industrial and Business Commercial within the Livable Oakville Plan; and
- Employment District in the North Oakville East and West Secondary Plans (under the 1984 Oakville Official Plan).

The longstanding provincial policy and legislative framework enabled a municipality to permit stand-alone office. Due to there being no specific prohibition, retail, service commercial and institutional uses could also be permitted. As a result, considerable portions of Oakville’s employment areas are occupied by uses that are excluded from the new definition.

As of October 20, 2024, the new definition for “area of employment” will mean “*an area of land designated in an official plan for clusters of business and economic uses, those being uses that meet the following criteria:*

1. *The uses consist of business and economic uses, other than uses referred to in paragraph 2, including any of the following:*
 - i. *Manufacturing uses.*
 - ii. *Uses related to research and development in connection with manufacturing anything.*
 - iii. *Warehousing uses, including uses related to the movement of goods.*
 - iv. *Retail uses and office uses that are associated with uses mentioned in subparagraphs i to iii.*
 - v. *Facilities that are ancillary to the uses mentioned in subparagraphs i to iv.*
 - vi. *Any other prescribed business and economic uses.*
2. *The uses are not any of the following uses:*
 - i. *Institutional uses.*
 - ii. *Commercial uses, including retail and office uses not referred to in subparagraph 1 iv.”*

Given the specific exclusion of institutional and commercial uses from the new definition and without any transition provision, on and after October 20, 2024, existing and lawfully established institutional and commercial uses within the town’s employment areas would be at risk for piecemeal conversions to alternative, non-employment designations without being subject to the policy tests for conversion and without protection against appeals on a council decision.

Transition Provision for Excluded Uses

New subsections under 1 (1.1) and (1.2) of the *Planning Act* that also come into effect on October 20, 2024, provide municipalities a transition provision for lands within employment areas that are occupied by uses excluded under paragraph 2 of the new definition (institutional and commercial uses). The transition of employment areas to an “area of employment” per the new definition may occur so long as the official plan policies for those areas restrict excluded uses on and after the effective date, and lands occupied by uses excluded from the new definition were lawfully established prior to the effective date.

This transition provision provides the town a means of preserving its employment areas pending completion of a comprehensive employment area review to determine appropriate locations for employment areas that are in line with the provincial direction, and subsequent official plan and zoning by-law amendments to implement that direction.

Employment and Commercial Review and OPA 26

On April 16, 2018, Planning and Development Council adopted Official Plan Amendment 26 (OPA 26), Employment and Commercial Review and Town-initiated Official Plan Amendment. This OPA was informed by an Employment and Commercial Review, prepared by Dillon Consulting, dated October 2016, which provided an employment lands supply analysis for both south and north Oakville.

A major conclusion that came out of the review is that Oakville should reserve its priority areas and strategically important lands for employment uses, beyond the time horizon of the study, which is to 2041. This was deemed important for the long term, given Oakville is approaching build-out of its greenfield areas and its urban boundaries are fixed.

Further, the report indicates it is strategically important to preserve for future employment uses both the town’s vacant and occupied employment lands in proximity to major transportation routes and major transit and large contiguous employment areas. This condition exists for many of the town’s existing employment areas. This speaks to the need to ensure protection of all of Oakville’s employment

areas until a comprehensive review can be carried out that makes long-term considerations for employment land needs in Oakville.

A long-term planning approach for employment areas is consistent with the PPS 2024, which includes policies that enable and encourage such an approach, and which will be discussed later in this report.

Purpose of Report

The purpose of this report is to provide OPAs that introduce policies into each official plan to restrict uses that are excluded from the new definition for “area of employment” in the *Planning Act* from the town’s employment areas on and after October 20, 2024. The report also provides OPAs to authorize lands occupied by uses excluded from the new definition to continue to be considered an “area of employment” so long as they were lawfully established prior to the effective date. This will preserve the town’s employment areas as a key part of the town’s urban structure pending completion of an employment area review and subsequent comprehensive official plan and zoning by-law amendments.

Given the timing between the provincial announcement and the effective date for the new definition, transition provision and PPS 2024 being only two months, it is necessary to combine the statutory public meeting and recommendation meeting at the October 15, 2024, meeting of Planning and Development Council. Bringing this matter forward with a recommendation as soon as possible will ensure that the risk to the town’s employment areas as a result of the changed definition for “area of employment” is minimized as much as possible.

Also, given the two months of notice prior to the effective date, it was not possible to bring forward a comprehensive official plan amendment that fully implements the provincial direction regarding employment areas. Such an amendment will follow an employment area review, which has not yet commenced. The proposed OPAs therefore are a first stage to preserve the town’s employment areas, with subsequent stages involving an employment area review, and comprehensive official plan and zoning by-law amendments.

DESCRIPTION OF OFFICIAL PLAN AMENDMENTS

Purpose

The proposed OPAs are to amend the town’s three official plans that are in effect: the Livable Oakville Plan, the North Oakville East Secondary Plan (1984 Oakville Official Plan), and the North Oakville West Secondary Plan (1984 Oakville Official

Plan). The Halton Region Official Plan (ROP) is also the town’s official plan and is not included in the proposal.

The purpose of the OPAs is to preserve the town’s protected employment areas pending completion of an employment area review that informs how the town will implement the provincial direction regarding employment.

Without the OPAs as proposed, the town’s employment areas could be reduced through individual, piecemeal processes outside of a town-initiated, comprehensive process that may impact the town’s long-term employment land needs.

Effect

The effects of the proposed OPAs will be to:

- Restrict uses that are excluded from the new definition for “area of employment” in the *Planning Act*, i.e., institutional and commercial uses, within the town’s official plan policies for its employment areas – lands within the Employment Area designations of the Livable Oakville Plan and Employment District in the North Oakville East and West Secondary Plans – after October 20, 2024;
 - It is important to note that as-of-right zoning provisions allowing the establishment of excluded uses within the town’s employment areas will still be in place and town staff is seeking clarification from the province on the impact of this on the town’s protected employment areas.
- Allow lands occupied by uses within the town’s employment areas that are excluded from the new definition for “area of employment” in the *Planning Act* to continue as an “area of employment”, so long as they were lawfully established prior to October 20, 2024;
- As it relates to lands within the town’s employment areas, allow the application of policies related to conversion of employment lands under Section 2.8.2.5 of the PPS 2024;
- As it relates to lands within the town’s employment areas, ensure continued restriction of appeals to the Ontario Land Tribunal on council decisions related to applicant-initiated amendments on employment area conversions under subsections 22 (7.3) and 34 (11.0.5) of the *Planning Act*;
- Preserve the town’s employment areas as protected until the town completes a review to determine long term employment land needs and

only allow the reduction of employment areas through a comprehensive process;

- Allow the town to have regard in its long- and short-term planning decisions to provincial interests related to the provision of adequate employment opportunities, protection of the financial and economic well-being of the province and its municipalities, and the appropriate location of growth and development; and
- Ensure that the town’s employment areas that connect to employment areas within adjacent municipalities remain protected and any changes in land use are based on a coordinated and comprehensive review.

Location

The proposed policies will apply to the town employment areas which include the Employment Area designations of Office Employment, Business Employment, Industrial and Business Commercial in the Livable Oakville Plan and lands designated as Employment District in the North Oakville East and West Secondary Plans.

The town’s employment areas include swaths of land south of Highway 407; west and east of Highway 403; north and south of the Queen Elizabeth Way; and along Royal Windsor Drive.

PLANNING POLICY & ANALYSIS

The proposed OPAs are subject to the following policy framework:

- Provincial Policy Statement 2020
- A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020)
- Provincial Planning Statement 2024
- Halton Region Official Plan
- Livable Oakville Plan
- North Oakville East Secondary Plan
- North Oakville West Secondary Plan

Provincial Policy Statement, 2020, and A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020

The proposed OPAs implement a provision provided in the *Planning Act* that will only come into effect on October 20, 2024, which is also the effective date for the PPS 2024 that will replace the Provincial Policy Statement 2020 and Growth Plan. Consideration of these policy frameworks, therefore, is not applicable.

Provincial Planning Statement 2024

The following sections of the PPS 2024 are relevant to the proposed OPAs:

- Section 2.8.2.1 of the PPS 2024 states that municipalities shall plan for, protect and preserve employment areas for current and future uses.
- Section 2.8.2.2 states that planning authorities shall protect employment areas that are located in proximity to major goods movement facilities and corridors.
- Section 2.8.2.3 requires planning authorities to designate, protect and plan for all employment areas in settlement areas by:
 - a) planning for employment areas over the long-term;
 - b) prohibiting residential uses, commercial uses, public service facilities and other institutional uses;
 - c) prohibiting retail and office uses that are not associated with the primary employment use;
 - d) prohibiting other sensitive land uses that are not ancillary to uses permitted in the employment area; and
 - e) including an appropriate transition to adjacent non-employment areas to ensure land use compatibility and economic viability.
- Section 2.8.2.4 requires planning authorities to assess and update employment areas identified in official plans to ensure that the designation is appropriate to the planned function of employment areas.
- Section 2.1.3 states that at the time of creating a new official plan and each official plan update, sufficient land shall be made available to accommodate an appropriate range and mix of land uses to meet projected needs for a time horizon of at least 20 years, but not more than 30 years, however planning for employment areas may extend beyond this timeline.
- The definition for *employment area* is: *those areas designated in an official plan for clusters of business and economic activities including manufacturing, research and development in connection with manufacturing, warehousing, goods movement, associated retail and office, and ancillary facilities. An employment area also includes areas of land described by subsection 1 (1.1) of the Planning Act. Uses that are excluded from employment areas are institutional and commercial, including retail and office not associated with the primary employment use listed above.*

A policy implication of the new PPS 2024 is that it incorporates the *Planning Act* definition for “area of employment” as the definition for “employment areas” and, due to replacing the Growth Plan and not carrying forward the municipal comprehensive review requirements, employment conversions may be requested at any time subject to the policy tests under Section 2.8.2.3 if the area is an “employment area” per the definition. The definition for employment areas includes as employment areas, areas of land described by subsection 1 (1.1) of the *Planning Act*.

Given all decisions affecting a planning matter must be consistent with the PPS 2024 on and after October 20, 2024, it is not clear how ongoing as-of-right zoning provisions will impact the town’s protected employment areas. Staff is seeking clarification from the province on this matter.

The proposed OPAs are consistent with the provincial policy direction regarding employment as they will protect the town’s employment areas for long-term employment planning in strategic areas of the town. Additionally, the proposed OPAs are intended as a first step to implement the provincial direction regarding employment, to preserve the employment areas until an employment area review is carried out to inform future official plan and zoning by-law updates.

Halton Region Official Plan

As of July 1, 2024, the town is now responsible for the Halton Region Official Plan (ROP) as a lower tier municipality that forms part of an upper tier municipality without planning responsibilities. Given the ROP contains higher level policies to guide regional growth rather than contain specific policies to permit uses within employment areas, it is not considered necessary to amend the ROP to implement the provincial transition provision for the new definition for “area of employment” in the *Planning Act*. The proposed amendments are considered consistent with the ROP.

Livable Oakville Plan, North Oakville East Secondary Plan and North Oakville West Secondary Plan

Official plan amendments are required in order to implement the transition provision provided for under subsections 1 (1.1) and (1.2) of the *Planning Act* related to excluded uses in the new definition for “area of employment”. The OPAs propose to introduce policies that:

- after October 20, 2024, restrict within the official plans uses excluded from the new definition in employment area designated lands, and
- authorize lands occupied by uses excluded from the new definition to continue to be considered an “area of employment” so long as the uses were lawfully established prior to October 20, 2024.

The Livable Oakville Plan (LOP) General Policies under Section 3 highlight the need to preserve the urban structure of which employment areas are a main component. The LOP also recognizes the employment mixed use corridors along Speers Road and Cornwall Road, distinct for their mix of non-traditional employment development that is supportive of the function of more traditional employment uses in the areas and vicinity.

The North Oakville Secondary Plans indicate that their primary focus is to protect for and establish a range of development opportunities for generating employment uses, with a range and scale designed to be compatible with adjacent land use designations and strategic for visible and prominent locations in proximity to highway corridors and major roads.

The proposed OPAs are needed in order to preserve the employment areas town-wide as protected until the completion of an employment area review that informs how the significant change in policy direction for employment areas will be implemented.

The proposed OPAs will add policies to the relevant employment area policy sections in the Livable Oakville Plan and North Oakville East and West Secondary Plans in accordance with Appendix A, B and C.

The respective policies will restrict within the town’s official plans uses excluded from the new definition of “area of employment” and authorize lands occupied by uses excluded from the new definition that were lawfully established prior to October 20, 2024, to continue to be within an “area of employment”.

Regarding the North Oakville West Secondary Plan, portions of it remain subject to outstanding appeals. As a result, portions of the Employment Districts within the North Oakville Secondary Plan area are in full force and effect while the designation of other areas has not yet been determined. In addition, Official Plan Amendments 34, 37 and 38 which would move the North Oakville West Secondary Plan into the Livable Oakville Plan and amend policies within the North Oakville West Secondary Plan area, remain subject to appeal, therefore, these amendments are needed for in-effect Employment District lands within the North Oakville West Secondary Plan until the moving of the North Oakville West Secondary Plan into the Livable Oakville Plan is complete.

Zoning By-laws

In Oakville, there are currently two zoning by-laws in effect: Zoning By-law 2014-014 for lands south of Dundas Street and north of Highway 407, and Zoning By-law 2009-189 for lands between Dundas Street and south of Highway 407. No changes are proposed to the town’s zoning by-laws at this time and uses excluded from the

new definition for “area of employment” will continue to be permitted through as-of-right zoning provisions.

Future comprehensive zoning by-law amendments to both of the town’s zoning by-laws will be required following a review of the town’s employment areas and to implement the provincial direction regarding employment.

TECHNICAL CONSIDERATIONS

Jurisdictional Scan of Ontario Municipalities

The City of Toronto under OPAs 668 and 680, and City of St. Catharines under OPA 40 have brought forward amendments to authorize the continuation of uses excluded from the new definition for “area of employment” once in effect.

At the time these OPAs were approved by the respective councils, the province had not yet announced the effective date for the new definition or its transition provision, and the final version of the PPS 2024 had not yet been provided.

Staff understands that other municipalities are contemplating bringing forward timely OPAs to ensure protection of their employment areas in accordance with subsections 1 (1.1) and (1.2) of the *Planning Act*.

Public Engagement

The proposed OPAs are being brought forward as a combined statutory public meeting and recommendation meeting due to the short, two-month period between the provincial announcement and effective date for the new definition, its transition provision and the new PPS 2024.

Members of the public have had the opportunity to submit comments since the statutory notice was provided on September 25, 2024, and may also register as a delegate to speak to the matter.

The OPAs are intended to preserve the town’s employment areas as protected until the town completes an employment area review to inform comprehensive official plans and zoning by-law amendments. The employment area review and amendments will involve extensive public and stakeholder engagement.

Next Steps

The proposed OPAs are considered a first step to protect the town’s existing employment areas in the context of a changing provincial planning framework. Next

steps will involve an employment area review to determine the location where lands are intended to remain as protected employment areas per the new definition for “area of employment” in the *Planning Act* and provincial direction, and areas that may be better suited as mixed use areas.

The proposed OPAs are needed to ensure that changes to the town’s employment areas are informed by a comprehensive process, rather than individual, piecemeal conversions. The employment area review once completed will inform subsequent official plan and zoning by-law amendments.

CONCLUSION

In response to the recent announcement on changes to the provincial direction regarding employment and the provision of a final PPS 2024, amendments are proposed to the town’s official plans (excluding the Halton Region Official Plan) to implement the transition provision for this change provided by the province.

The proposed OPAs are required in order to preserve the town’s employment areas as protected pending a comprehensive employment area review and subsequent official plan and zoning by-law amendments that will involve public and stakeholder consultation and fully implement the provincial direction regarding employment.

CONSIDERATIONS

(A) PUBLIC

Notice of the public meeting to be held on October 15, 2024, was provided on September 25, 2024. For the future employment area review and subsequent official plan and zoning by-law amendments, public and stakeholder consultation will be incorporated.

(B) FINANCIAL

There are no financial impacts resulting from this report.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

There are no direct impacts to other departments because of this report.

(D) COUNCIL STRATEGIC PRIORITIES

This report addresses Council’s strategic priority/priorities related to Growth Management.

(E) CLIMATE CHANGE/ACTION

This matter does not directly affect climate change, however effective growth management does contribute to mitigation efforts such as the development of low carbon, climate resilient, and complete communities.

APPENDICES

Appendix A Draft Official Plan Amendment (Livable Oakville Plan)

Appendix B Draft Official Plan Amendment (North Oakville East Secondary Plan)

Appendix C Draft Official Plan Amendment (North Oakville West Secondary Plan)

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