

Official Plan Review – Proposed Section 37 Policies Related to Housing

Date:	August 16, 2012
To:	Planning and Growth Management Committee
From:	Acting Chief Planner and Executive Director, City Planning
Wards:	All
Reference Number:	p:\2012\Cluster B\PLN\pg12055

SUMMARY

Pursuant to Section 26 of the Planning Act, a review of the City's Official Plan is being conducted to determine what policies of the existing Official Plan are working, what policies need to be updated, revised or deleted, and what new policies are required to be added. The Official Plan housing-related policies are part of this review.

The key principles under consideration as part of the housing policies review include: ensuring that the affordable housing policies can be implemented equitably across the City; updating the policies in order to encourage new affordable housing; and creating a framework to encourage new affordable ownership housing.

This report proposes changes to address one aspect of this policy review, namely to propose amendments to the Section 37 policies to explicitly authorize affordable ownership housing and condominium-registered rental units as eligible Section 37 benefits.

The proposed policy revisions are attached to this report as Attachment 1. The proposed changes are the first in a series of proposed amendments that will provide a framework for new affordable housing to be created. Further changes on additional housing policy matters are proposed to be brought forward in the fall of 2012 and in early 2013; notably revisions to the definition of "affordable ownership housing", adding secondary suites to the list of a full range of housing, adding demolition control for residential buildings, revisions to the "large site" affordable housing policy, adding requirements for "family-sized" units, and revisions to facilitate tower renewal.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council authorize City Planning staff to further consult on the proposed revisions to the Official Plan Section 37 policies related to housing as contained in Attachment 1 to this report, with the public at large, housing stakeholders, and the Building Industry and Land Development Association (BILD).
2. City Council direct staff to conduct a public open house on the attached proposed revisions to the Official Plan policies in November of 2012.
3. The Chief Planner report back with final recommendations and an Official Plan Amendment to the Section 37 policies related to housing to a meeting of the Planning and Growth Management Committee in the first quarter of 2013 for the special meeting in fulfillment of Section 26 of the Planning Act.

Financial Impact

This report has no financial impact.

DECISION HISTORY

At its meeting of June 18, 2012, the Planning and Growth Management Committee requested the Chief Planner and Executive Director, City Planning to prepare a report for the September 13, 2012 meeting of Planning and Growth Management Committee outlining proposed policy amendments to the Official Plan pertaining to the affordable ownership housing policies. The following is a link to that decision:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.PG16.9>

A copy of the report dated May 29, 2012 which prompted the above request can be found through the following link:

<http://www.toronto.ca/legdocs/mmis/2012/pg/bgrd/backgroundfile-48095.pdf>

BACKGROUND - HOUSING POLICY CONTEXT

The current Official Plan housing policies include three main themes: to conserve existing rental housing; to encourage new affordable housing; and to protect tenants. Since the Plan came into force, the policies have been quite successful at conserving existing rental housing and protecting tenants. However, there is still a significant need in the City for new affordable housing. Close to half of the City's households rent – this is more than the combined total households in Mississauga, Brampton and Markham. The number of renter households is anticipated to grow as the population of the City increases.

The City continues to experience a constrained rental market, with low vacancy rates and minimal production of new affordable housing. In October, 2011, the rental vacancy rate

was 1.4% and is expected to remain low for the foreseeable future. The impact of a low vacancy rate means that the City will continue to see high demand for rental housing and increased affordability issues for housing. As such, the Official Plan rental housing protection policies continue to be of significant importance. However, the housing policies need to do more to encourage new affordable housing, both rental and ownership.

COMMENTS

This report is a partial response to Planning and Growth Management Committee's direction to report to the September 13, 2012 meeting regarding affordable ownership policies. A further report this fall will address further matters pertaining to housing, namely the Official Plan definition of "affordable ownership housing", adding secondary suites to the list of a full range of housing, and demolition control for residential buildings. A further report in early 2013 will address proposed changes to the "large site" affordable housing policy, requirements for "family-sized" units, as well as revisions to facilitate tower renewal. In conjunction with these proposed amendments, staff are also working with the Affordable Housing Office and Legal Services staff to put in place a process and mechanisms to secure the long-term affordability of affordable ownership units and establish income ceilings for eligible purchasers.

This report recommends amendments to the Official Plan Section 37 policies to explicitly authorize affordable ownership units and condominium-registered affordable rental units as eligible Section 37 benefits.

The City Solicitor has been consulted in the preparation of this report.

Public Consultation

As part of the general Official Plan Review consultations in the fall, 2011, housing affordability was listed as the one of the most prominent planning issues in the City. In general, members of the public suggested the need for greater investment in affordable housing and creative policies to encourage more affordable housing.

Focused housing stakeholder consultations were organized by City Planning staff, in partnership with staff from the Affordable Housing Office. The first consultation meeting was held on October 12, 2011 and attended by about 20 housing stakeholders. A further consultation meeting specifically with affordable ownership stakeholders was held on November 9, 2011. Consultation meetings were also held with the following groups and City Divisions: Councillor Ana Bailão's Private Sector Roundtable, Kehilla Residential Programme, Affordable Housing Office and Shelter, Support and Housing Administration Division.

Specific feedback and comments from the consultation sessions included:

Need for Affordable Housing

- Housing affordability a significant challenge for many residents
- Rental housing protection policies are working well
- Lack of construction of new rental housing is a significant issue for the City
- More incentives and/or planning flexibility should be provided for affordable housing projects
- Rooming houses should be permitted across the City
- Section 37 policies should allow for condominium units owned by non-profit housing providers to be used as rental housing
- The large-site policy should be amended to apply to a wider range of residential development in order to achieve more affordable housing

Amend Affordable Ownership Framework

- Policies should facilitate more affordable ownership opportunities
- Current affordable ownership definition results in prices that are unrealistically low, with very few units produced
- Section 37 policies should explicitly permit affordable ownership housing as an eligible benefit
- Develop measures to maintain long-term affordability of affordable ownership units

Proposed Amendments to Section 37 Policies Related to Housing

The following revisions to the Official Plan Section 37 policies (s.5.1.1) are proposed in Attachment 1 to this report.

a) Affordable Ownership Housing as a Section 37 Benefit

Currently, the Official Plan Section 37 policies do not explicitly include affordable ownership housing as a community benefit. At the time the Official Plan was drafted, it was determined that affordable rental housing was a key priority and any community benefits for housing should be directed to the creation of rental housing. In addition, the mechanisms and process to secure affordable ownership housing on a long-term basis were not in place. As such, affordable ownership housing was omitted as an explicitly-listed Section 37 benefit.

Affordable ownership housing is an appropriate community benefit provided it is secured in a long-term manner and purchasers meet appropriate income limits. City staff is working on developing the appropriate means to secure longer-term affordability of such ownership units, to ensure that affordability is not lost at the time of the first resale, as well as requirements for income ceilings at the time of purchase. Allowing affordable ownership units as an eligible Section 37 community benefit should be conditional on

agreements which secure these provisions. The production of new affordable ownership units would help to achieve social and income mix within new buildings and neighbourhoods. Permitting affordable ownership housing as a Section 37 benefit encourages developers to offer more housing choice with better affordability and is one tool amongst many that promotes affordability across the housing spectrum and helps to support a full range of housing options.

b) Condominium-Registered Affordable Rental Units as a Section 37 Benefit

Currently, Official Plan Housing policies 3.2.1.3 & 4 encourage and provide incentives for the production of new affordable housing, particularly new rental housing, through the provision of municipal assistance. New rental housing with either affordable or mid-range rents is also explicitly included as an eligible Section 37 benefit, provided the housing meets specific criteria. While the Official Plan policy framework encourages new rental housing, only a small number of developments have provided new rental housing as a voluntary Section 37 contribution.

There are a number of reasons why little new rental housing is being built, or secured as voluntary Section 37 benefits. One of the contributing factors is the restrictive rules regarding how the rental housing can be provided. In particular, the housing cannot be condominium-registered and must be contiguously grouped in any development, which means that scattered units within new condominiums are not permitted. The policy goal has been to secure rental housing that will continue to be rental housing after the terms of any Section 37 provisions have expired, and that will not revert to condominium tenure at the sole discretion of the owner.

The issue of permitting condominium-registered rental housing owned by non-profit housing providers has come up in the past number of years. Recently, the issue has been highlighted as part of two redevelopment projects: 4 units owned by Kehilla (in partnership with Great Gulf Homes) at 430 King Street West (“The Charlie”); and 20 units owned by Artscape (in partnership with Urbancorp) at 38 Abell Street. Both of these involved affordable rental units registered as condominium units that were scattered within a larger condominium complex. The rental units in these cases did not comply with the Official Plan and Section 37 Guidelines as they were condominium-registered.

If the affordable rental units had been contiguous, they could have easily been grouped on one or more storeys or wings of the building and secured as rental housing, with the rental section not included in the condominium registration. This arrangement is commonly used when the City secures replacement rental housing in a section of a larger condominium building or complex. The problem arises when incorporating a smaller number of scattered units within the larger building.

There is a significant need for achieving new affordable rental housing in the City and some market condominium developments have been prepared to provide some affordable rental units to non-profit housing providers as Section 37 community benefits. To facilitate the provision of this community benefit, staff propose that individual

condominium-registered rental units be considered an eligible Section 37 benefit provided the units have affordable rents, are owned and operated as rental housing by a registered non-profit housing organization satisfactory to the Chief Planner, and a satisfactory agreement securing such housing is entered into with the City. This provision would apply where up to 20 affordable rental units are being provided. It is unlikely that greater numbers of affordable rental units will be contributed to non-profit providers in any one development.

In general, rental units owned by non-profit housing providers are at significantly less risk of being sold or converted to ownership tenure in the future as providers have a greater interest in maintaining units as rental housing. Staff note that although this risk is considered to be at an acceptable level, the retention of the condominium-registered rental units in accordance with the Section 37 agreement cannot be absolutely guaranteed.

In allowing condo-registered rental units, unlike purpose-built rental units, the City also loses the ability to protect the affordable rental units once the affordable rental housing term expires (often 20 or 25 years). The proposed policy thus includes additional criteria of a minimum affordability period of 25 years and a minimum period of 50 years for which the rental tenure is secured. These were the terms accepted by Artscape in an actual case where the City approved a site-specific Official Plan Amendment to authorize condominium-registered rental units in West Queen West. Staff propose that a new Section 37 policy, 5.1.1.6(j), be included in the Official Plan to explicitly permit this unique community benefit.

Next Steps

Over the course of the fall, consultation on the draft policies recommended in this report will take place. The draft policies will be communicated to the public and stakeholders through some of the following tools:

- Posting to the City's Official Plan Review website, at www.toronto.ca/opreview; and
- By email or mail to individuals on the Official Plan Review mailing lists and housing stakeholders engaged with the Review.

Consultation is also proposed to take place with housing stakeholders and BILD and through an open house with members of the public. Section 26 of the Planning Act

requires, as part of the five-year Official Plan review, that Council hold a special meeting, open to the public, "to discuss the revisions that may be required" to the Official Plan. Staff will report the results of the consultations at a special public meeting of Planning and Growth Management Committee in the first quarter of 2013.

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SIGNATURE

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Attachment 1: Proposed Official Plan Amendments to Section 37 Policies Related to
Housing

Attachment 1

Proposed Official Plan Amendments to Section 37 Policies Related to Housing

The following underlined text in section 5.1.1 Height and/or Density Incentives is added.

5.1.1 HEIGHT AND/OR DENSITY INCENTIVES

6. Section 37 community benefits are capital facilities and/or cash contributions toward specific capital facilities, above and beyond those that would otherwise be provided under the provisions of the Planning Act or the Development Charges Act or other statute, including:
 - a. the conservation of heritage resources that are designated and/or listed on the City of Toronto Inventory of Heritage Properties;
 - b. fully furnished and equipped non-profit child care facilities, including start-up funding;
 - c. public art;
 - d. other non-profit arts, cultural, community or institutional facilities;
 - e. parkland, and/or park improvements;
 - f. public access to ravines and valleys;
 - g. streetscape improvements on the public boulevard not abutting the site;
 - h. rental housing to replace demolished rental housing, or preservation of existing rental housing;
 - i. purpose built rental housing with mid-range or affordable rents, land for affordable housing, affordable ownership housing, or, at the discretion of the owner, cash-in-lieu of affordable rental or ownership units or land;
 - j. a maximum of 20 individual affordable rental units, located in a registered condominium, provided the units are owned and operated as rental housing by a registered non-profit housing provider satisfactory to the City and meet established criteria, including securing through an agreement the maintenance of affordable rents for at least 25 years and rental tenure for at least 50 years. Such units will be deemed to be rental housing notwithstanding the definition of rental housing that would otherwise exclude condominium-registered units.
 - k. local improvements to transit facilities including rapid and surface transit and pedestrian connections to transit facilities;
 - l. land for other municipal purposes;
 - m. substantial contributions to the urban forest on public lands; and
 - n. other local improvements identified through Community Improvement Plans, Secondary Plans, Avenue Studies, environmental strategies, sustainable energy strategies, such as deep lake water cooling, the capital budget, community service and facility strategies, or other implementation plans or studies.