

Zoning Revisions for Municipal Shelters

Date: February 28, 2019

To: Planning and Housing Committee

From: Chief Planner and Executive Director, City Planning

Wards: All

SUMMARY

This report reviews the current zoning for municipal shelters, and recommends a Zoning By-law Amendment to delete the existing 250-metre separation distance requirement between shelters, and delete the requirement to be on or within 80 metres of a major street. It also summarizes the city-wide public consultations held in November 2018 on proposed options to increase the as-of-right zoning permissions for municipal shelters.

While they are a short-term measure, municipal shelters are an important part of housing in the city. The proposed Zoning By-law Amendment supports the provision of municipal shelters in all areas of the city, by removing the conditions which currently restrict where they may locate. This will provide adaptability for the City in addressing the growing demand for shelter services, and allow for quick responses to changing circumstances.

RECOMMENDATIONS

The Chief Planner and Executive Director, City Planning recommends that:

1. City Council amend City of Toronto Zoning By-law 569-2013 and Municipal Shelter By-law 138-2003 with respect to the locational criteria for municipal shelters in accordance with the draft Zoning By-law Amendment attached as Attachment No. 1 to this report.
2. City Council authorizes the City Solicitor to make such stylistic and technical changes to the draft Zoning By-law Amendment as may be required.

FINANCIAL IMPACT

The recommendations in this report have no financial impact.

DECISION HISTORY

At its meeting on December 5 to 8, 2017, City Council directed the Acting Chief Planner and Executive Director, City Planning to report to the May 1, 2018 Planning and Growth Management Committee meeting with Zoning By-law Amendment options that increase the as-of-right permissions for municipal shelters. At the same meeting, City Council also authorized the Deputy City Manager Cluster A, in consultation with the Chief Planner and Executive Director, City Planning and other divisions, to approve specific sites for emergency shelters provided they meet certain criteria, including that they comply with zoning.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.CD24.7>

At its meeting on June 7, 2018, the Planning and Growth Management Committee directed the Chief Planner and Executive Director, City Planning to conduct city-wide public consultations on the proposed options to increase the as-of-right zoning permissions for municipal shelters. The committee did not adopt the staff recommendation to prepare a Final Recommendation Report with a Zoning By-law Amendment in early 2019.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.PG30.8>

ISSUE BACKGROUND

The Shelter, Support and Housing Administration Division (SSHA) is the lead for housing and homelessness services in Toronto. City Planning has been involved in inter-divisional initiatives, often jointly with SSHA, related to the development of policy and program responses to affordable housing in the city. This report was prepared in consultation with SSHA.

The demand for affordable housing in the city is considerable. While providing people experiencing homelessness with stable, long-term housing is the City's preferred approach, municipal shelters are an important short-term response to homelessness.

Over the past two months, 24-hour respite site space capacity has been increased to 800 spaces available each night to respond to increased service demand. In addition, staff working in collaboration across a number of divisions have made significant progress in implementation of the three-year, 1000-bed, shelter plan with two new shelters already opened and a total of 400 new shelter beds available in 2019.

In April 2017, Council approved a new approach to shelter siting and community engagement and, then in December 2017, Council approved a new Emergency Shelter Development Process and site approval model to complement this approach. The goal of the new process is to effectively engage Council, service users and the community, while strengthening the City's ability to successfully and quickly secure properties in Toronto's competitive marketplace.

In January 2018, City Council reaffirmed its direction that the shelter occupancy rate be

reduced to 90%, to ensure all those seeking shelter can access it. At the February 2018 budget meeting, City Council authorized the opening of 1000 new permanent shelter beds by the end of 2020.

Representatives from SSHA and Real Estate Services (RES) work together to locate new shelter sites. Zoning and functional criteria govern the suitability of a new shelter site. In addition to checking compliance with applicable zoning by-laws, the key functional criteria applied by SSHA and RES for locating new shelter sites are:

- Located across the geography of the city
- Available preferably for purchase or, if not, for a minimum lease of 10 years
- Minimum of 20,000 square feet (approximately 1860 square metres), which includes programming space for clients, staff and community members
- Close to public transit and other services
- If an existing building, must be the main floor, or have an elevator or room to add an elevator to meet accessibility requirements

In order to determine compliance with zoning by-laws, SSHA staff seek advice from City Planning and Toronto Building with respect to specific properties that they consider to be potential candidate sites for new municipal shelters.

Between January and December 2018, staff assessed 379 potential sites in the city. All but 11 of these sites have since been eliminated as potential shelter sites for various reasons. Approximately 15% of the sites were eliminated from consideration because they did not meet zoning by-law requirements.

The results of the recent site search undertaken by the City outlines the difficulty in locating and securing sites for municipal shelter uses. A combination of factors such as lack of landowner interest, market competition, and zoning criteria impact the City's ability obtain new locations for this much needed use. The site search results also illustrate the importance that having as many sites as possible in the pool of potential sites, as this increases the chances of finding and securing a suitable site. The lack of available sites is compounded by low vacancy rates and rising property values across the city.

While the Committee of Adjustment process is an option to seek zoning compliance through a minor variance application, it can mean added time, cost and an uncertain outcome. The ability for the City to respond quickly when a site becomes available is critical to successfully securing new sites.

COMMENTS

Provincial Policy

Section 2 of the Planning Act identifies the provision of a full range of housing, and the orderly development of safe and healthy communities as a matter of provincial interest.

The Provincial Policy Statement, 2014 (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS directs that planning authorities must provide an appropriate range of housing types and affordability to meet projected requirements of current and future residents. This includes housing forms which are required to meet the social, health and well-being requirements of all residents.

The Growth Plan for the Greater Golden Horseshoe, 2017 provides a framework for managing growth in the Greater Golden Horseshoe. Policy 2.2.1.4 speaks to applying the policies of the Plan to support the achievement of *complete communities* that:

- Feature a diverse mix of land uses, including residential and employment uses, and convenient access to local stores, services, and public service facilities
- Improve social equity and overall quality of life, including human health, for people of all ages, abilities, and incomes
- Provide a diverse range and mix of housing options, including second units and affordable housing, to accommodate people at all stages of life, and to accommodate the needs of all household sizes and incomes

Complete communities "support opportunities for people of all ages and abilities to conveniently access most of the necessities for daily living, including an appropriate mix of jobs, local stores, and services, a full range of housing, transportation options and public *service facilities*." Policy 2.2.6 directs upper and single-tier municipalities, to develop a housing strategy which includes providing a range of housing options and which aligns with provincial housing and homelessness plans.

The proposed zoning by-law amendment is consistent with the PPS and conforms to the Growth Plan.

Official Plan

The Official Plan directs that a full range of housing, in terms of form, tenure and affordability be provided across the city and within neighbourhoods. It also supports a diverse range of housing to meet the current and future needs of residents. The full housing spectrum envisioned by the Official Plan includes emergency and transitional housing for homeless people and at risk groups.

The Official Plan considers shelters to be a form of housing, and therefore a residential use. The Official Plan permits all forms of residential uses, including municipal shelters, on lands that are designated *Mixed Use Areas, Regeneration Areas, Apartment Neighbourhoods and Neighbourhoods*. Lands designated as *Employment Areas* are to be used only for business and economic activity, which does not include any form of residential uses, including shelters.

The draft Zoning By-law Amendment supports the provision of a full range of housing across the city and within all neighbourhoods, in keeping with the Official Plan.

Zoning Regulations for Municipal Shelters

Municipal Shelters in Toronto are regulated by city-wide Zoning By-law 569-2013. Those properties that are not subject to Zoning By-law 569-2013, due to various transitional reasons, are subject to the Municipal Shelter By-law 138-2003.

The Municipal Shelter By-law approved by Council in February 2003, and subsequently amended and approved by the Ontario Municipal Board (OMB) in March 2004, contains two key regulations which serve to restrict where a municipal shelter may be located:

1. A minimum separation distance of 250 metres from another shelter
2. A requirement to be located either on an arterial road or on a flanking street that intersects the arterial road if the lot is within 80 metres of that arterial road

The intent of the municipal shelter by-law was carried forward into Zoning By-law 569-2013, which includes similar permissions and locational conditions. Zoning By-law 569-2013 defines a municipal shelter as:

"**premises** in which short-term emergency accommodation and associated support services are provided and supervised, and is operated by or for the City of Toronto, or an agency of the City of Toronto."

Zoning By-law 569-2013 permits municipal shelters as-of-right in most zones, subject to the same two conditions contained in the municipal shelter by-law: a 250-metre separation distance from another shelter, and a requirement to be located either on a major street or on an intersecting street if the lot is within 80 metres of the major street.

Zoning By-law 569-2013 is more restrictive than the municipal shelter by-law because the newer by-law no longer allows municipal shelters to be located in every zone. For example, they are no longer permitted in most industrial zones. This change in use permissions is consistent with the Official Plan policies for lands designated as *Employment Areas*.

Proposed Zoning Options

Responding to Council's December 2017 direction, City Planning staff developed options to increase the as-of-right zoning permissions for municipal shelters. The Planning and Growth Management Committee endorsed these options as the basis for the public consultation that it directed staff to undertake, at the June 7, 2018 meeting.

Options for 250-metre Separation Distance Regulation from another shelter:

1. Delete the separation distance requirement.
2. Reduce the separation distance requirement to something smaller.
3. Apply the separation distance requirement to shelters of a certain size only (i.e., shelters with more than "x" number of beds or more than "x" square metres of gross floor area).

Options for Location on or within 80 metres of a Major Street Regulation:

1. Delete this requirement.
2. Increase the distance from a major street within which a shelter can locate.
3. Apply the requirement to shelters of a certain size only (i.e., shelters with more than "x" number of beds or more than "x" square metres of gross floor area).

A combination of options one and two were also considered.

Consultation

City-wide public consultations were undertaken in late November 2018. Four public consultation meetings were held, one in each of the Community Council areas. The consultation was advertised through City Planning's various social media platforms as well as various newspapers. The meetings were attended by service providers, residents and, in some cases, past and present shelter clients.

While attendance at the meetings was less than expected, those in attendance expressed general support for deleting the 250-metre separation distance requirement because it is seen as discriminatory and 'people zoning', and it does not support what it was intended to do, which is the city-wide distribution of shelters. Participants felt that shelters should be located in all communities so that people can stay within their community and close to their support networks. Some comments also related to potential benefits of having shelters in close proximity to one another.

There was also general support expressed from those in attendance for deleting the requirement to be on or within 80 metres of a major street. Most participants felt that to access services and transit people would be willing to travel further than 80 metres, and that access is already considered by SSHA when locating shelters.

On non-zoning issues, participants stated they would like to see the City establish smaller shelters, and improve communication with the community when opening new sites. Some other comments were related to the programming of shelters, and the need to ensure that shelter clients have the support systems they need and activities to go to during the day.

In addition to comments heard at the meetings, City Planning staff also received some feedback via phone and e-mail during the consultation period. These comments reiterated those heard at the public consultation meetings.

Proposed Zoning By-law Amendment

Staff are recommending that the minimum 250-metre separation distance between municipal shelters be deleted, and that the major street locational requirement also be deleted.

At the time that the municipal shelter by-law was being considered by Council in 2002 and 2003, staff advised that there was no planning rationale for including a separation distance requirement. The 250-metre separation distance requirement was recommended by four of the five community councils and ultimately approved by City Council. At the time, the purpose of this requirement was to encourage the distribution of shelters throughout the city and to avoid the concentration of shelters in any one location. It was also felt at the time that a distribution of shelters would ensure that community services were not overburdened in any one given area.

Given the location of existing municipal shelters, 15 years of applying the 250-metre separation distance requirement as envisioned by the Municipal Shelter By-law has not resulted in a distribution of shelters across the city. Existing shelters tend to be in the downtown.

While there is a need to be able to locate shelters throughout the city to ensure that people who become homeless can continue to access their professional and social supports, this objective does not benefit from the 250-metre separation distance requirement. Furthermore, the issue of shelter distribution and concentration is one that SSHA considers as part of the process when siting a new shelter. There may also be valid reasons to have shelters located close together, such as synergies or hub connection possibilities.

Separation distances are considered to be potentially discriminatory. The Ontario Human Rights Commission (OHRC) recommends that municipalities consider the Ontario Human Rights Code before drafting zoning by-laws; eliminate minimum separation distances; and monitor for the impacts that zoning by-laws may have that could be seen as discrimination.

With respect to the major street restriction, at the time that the municipal shelter by-law was being considered, this requirement was recommended by one Community Council and approved by Council. The provision was ultimately modified by the OMB so that a municipal shelter could be located on a flanking street within 80 metres from the corner of the arterial road. This was intended to provide good access to services and public transit which generally are found on the major streets. The OMB also decided this helped in distributing the shelters across the city.

With respect to the 80-metre distance from a major street requirement, the outcome of applying this regulation has not been consistent with the original intent, which was to provide good access to transit and services. Eighty metres is not a long distance to travel when accessing transit or services, equating to less than a minute walk. Five-hundred metres is widely used as a comfortable walking distance, which equates to a 7-10 minute walk. Since the majority of properties in the city would fall into the proximity of 500 metres from a Major Street, it is the recommendation of City Planning staff that no regulation is required to address this. Proximity to transit is also one of the key functional criteria applied by SSHA and RES for locating new shelter sites. Many of the potential shelter locations that were identified by RES in their site searches and that did not comply with this requirement were just outside of the 80-metre requirement.

Regardless of which zone a municipal shelter is located in, it would still need to comply with the zoning requirements and performance standards for that zone such as height, density, setbacks, and parking.

The proposed Zoning By-law Amendment also amends Municipal Shelter By-law 138-2003 by deleting the same locational criteria, in keeping with the recommended changes being made to Zoning By-law 569-2013. While the Municipal Shelter By-law is not consistent with the in-force Official Plan in terms of permitting municipal shelters in industrial zones, this issue does not form part of this report. Removing municipal shelters as a permitted use in industrial zones is part of the larger Official Plan conformity exercise that is currently being undertaken by City Planning staff.

Conclusion

While the Planning and Growth Management Committee did not adopt the staff recommendation to prepare a Final Recommendation Report with a Zoning By-law Amendment when it considered this matter in June 2018, City Planning is bringing this report forward as follow-up to public consultation this past fall, and in response to the increased need for shelter space in the city and City Council direction to take action on housing. While City initiatives like the Housing Now Initiative will provide more affordable housing units in the long-term, the proposed zoning by-law amendments support the provision of municipal shelters in the immediate future.

It has been 15 years since the municipal shelter by-law was approved. The two locational criteria that it applied to municipal shelters, which were brought forward in Zoning By-law 569-2013, were intended to support more locations where this use could locate. However, neither of these criteria have resulted in the intended outcomes.

The 250-metre separation distance requirement has not led to a distribution of shelters city-wide, and the 80-metre from a major street requirement restricts the ability to locate shelters in many areas that are within a reasonable distance of transit and services.

Deleting these two locational requirements from the zoning by-law would increase the potential sites where municipal shelters could locate city-wide, is consistent with provincial policies and the Official Plan and will support the City's ability to respond to the increasing need for shelter services, and provide assistance to those experiencing homelessness.

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SIGNATURE

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ATTACHMENTS

Attachment 1: Draft Zoning By-law Amendment