

Inclusionary Zoning Draft Official Plan Amendment and Zoning By-law Amendment

Date: September 4, 2020

To: Planning and Housing Committee

From: Chief Planner and Executive Director, City Planning

Wards: All

SUMMARY

This report presents draft Inclusionary Zoning Official Plan and Zoning By-law amendments for the purpose of public consultation. Inclusionary Zoning is a land use planning tool that enables municipalities to require new development to include affordable housing. Inclusionary Zoning will be a key policy tool to help the City achieve its target of approving 40,000 affordable rental homes and 4,000 new affordable ownership homes by 2030. Key components of the draft policies and zoning include requirements for 5-10% of the total residential gross floor area in a development to be secured as affordable housing for 99 years. Lower requirements would apply to purpose-built rental housing projects. The Inclusionary Zoning policy requirements would be implemented within strong and moderate market areas identified in Attachment 1 and, in accordance with provincial requirements, would be limited to Protected Major Transit Station Areas (PMTSAs).

The draft amendments have been informed by feedback received through public and stakeholder consultation undertaken in 2019. This feedback included strong support for a 99 year or permanent affordability period and options to require more deeply affordable units.

Affordable units created through Inclusionary Zoning would be secured at rents or prices based on the Official Plan definitions of affordable rental housing and affordable ownership housing. A proposed updated definition of affordable rental housing and affordable rents is targeted to be presented to the September meeting of the Planning and Housing Committee in a separate report. This proposed updated definition would support Action 52 of the HousingTO 2020-2030 Action Plan to review options for a revised definition of affordable housing by adding an income-based approach to the definition. A proposed draft revised definition of affordable ownership was consulted on in 2019 along with the proposed Inclusionary Zoning policy directions.

This report also presents results of the updated Inclusionary Zoning Assessment Report, which provides an in-depth analysis of housing need and demand and the

potential impacts of Inclusionary Zoning on the financial viability of development. While the expectation was to advance this in early 2020, further analysis was required to consider provincial changes to the land use planning framework, including understanding the impact of the proposed community benefits charge (CBC) approach. Updates to the draft Inclusionary Zoning Assessment Report have been made to factor in the latest market data, comments received through consultation and changes to the planning framework introduced through Bill 108. Additional analysis undertaken as a result of public and stakeholder feedback indicates long term and deeper affordability requirements could be supported if the percentage of units secured is adjusted to ensure continued viability. Further analysis will be undertaken to inform the final recommended Inclusionary Zoning policy approach based on feedback obtained through the recommended consultations, including consideration of the proposed definitions of affordable housing as they are refined based on public and stakeholder feedback.

The proposed draft amendments reinforce the City's policy objectives for providing a full range of housing across the city and supports Action 53 of the HousingTO 2020-2030 Action Plan to ensure new housing opportunities are targeted to low and moderate-income households and affordability is provided long-term.

This report recommends that planning staff undertake public and stakeholder consultation on the draft Official Plan Amendment and Zoning By-law Amendment. Joint consultations are proposed for Inclusionary Zoning and the proposed draft affordable rental definitions. The results of this consultation along with the final recommended Inclusionary Zoning Official Plan and Zoning By-law Amendments are targeted to be brought to Planning and Housing Committee in the first half of 2021. The Official Plan Amendment and Zoning By-law Amendment do not require Ministerial approval and may only be appealed to the Local Planning Appeal Tribunal by the Minister of Municipal Affairs and Housing. A key component to be advanced to support the policies is the development of Implementation Guidelines. These guidelines will be developed to support the final recommended policies and zoning, to ensure clarity and transparency with respect to the City's implementation of the policies.

RECOMMENDATIONS

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

1. Planning and Housing Committee direct that the draft Official Plan Amendment and Zoning By-law Amendment for Inclusionary Zoning, appended as Attachment 1 and Attachment 2 to this report, be endorsed as the basis for public consultation.
2. Planning and Housing Committee direct City Planning staff to conduct consultations and meet with key stakeholders including housing advocates and the development community to obtain comments and feedback on the draft policies and Zoning By-law for Inclusionary Zoning contained in Attachment 1 and Attachment 2.
3. Planning and Housing Committee request the Chief Planner and Executive Director, City Planning to prepare a Final Recommendation Report with a recommended Official

Plan Amendment and Zoning By-law Amendment for Inclusionary Zoning for consideration at a statutory public meeting held by the Planning and Housing Committee in the first half of 2021.

FINANCIAL IMPACT

The City Planning Division confirms that there are no financial implications resulting from the recommendations included in the report in the current budget year or in future years.

Equity Impact Statement

The adequate provision of a full range of housing, including affordable housing, is a Provincial interest. The City's Official Plan contains policies relating to the provision of a full range of housing and maintaining and replenishing the affordable and mid-range housing stock within the City. Access to safe, good quality and affordable housing is also a fundamental goal of the City's Housing TO 2020-2030 Action Plan and is an important determinant of physical and mental health and wellbeing. Adequate and affordable housing is also the cornerstone of inclusive neighbourhoods and supports the environmental and economic health of the city, region and country as a whole, ensuring that essential workers can afford to make their home in the City. As part of consultations on the draft Official Plan Amendment and Zoning By-law Amendment for Inclusionary Zoning, staff plan to continue to engage with equity seeking groups and organizations.

DECISION HISTORY

City Council at its meeting of January 31 and February 1, 2018 provided a response to the Province on a proposed version of the Inclusionary Zoning regulation. Many of City Council's recommendations for increased municipal decision making were incorporated into the final regulation. The report also reiterated the City's key principles for a successful Inclusionary Zoning framework: predictability; clarity and consistency; flexibility; equitable and needs based, and partnership based.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.PG25.8>

At its meeting of May 28, 2019, the Planning and Housing Committee endorsed proposed Official Plan Inclusionary Zoning policy directions and a proposed affordable ownership housing definition as the basis for public consultation and directed staff to report back on the findings from the consultation in the fourth quarter of 2019. The proposed policy directions were informed by initial consultations with key stakeholders and the findings from a draft Assessment Report, comprised of a Housing Need and Demand Analysis and a Financial Impact Analysis.

The proposed policy directions were developed prior to May 2, 2019, following which Bill 108 introduced changes to the *Planning Act* to limit municipal implementation of Inclusionary Zoning to Protected Major Transit Station Areas or areas where a Development Permit System has been ordered by the Minister. Motions were adopted

directing that the public consultations on Inclusionary Zoning include broad options for the application of Inclusionary Zoning, proposed new definitions of affordable rental and ownership housing, and opportunities for independent community groups to host their own consultation events.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.PH6.2>

At its meeting of November 13, 2019, the Planning and Housing Committee directed City Planning staff to develop draft Inclusionary Zoning Official Plan policies informed by public and stakeholder feedback received throughout consultations undertaken in 2019. The Committee also directed City Planning staff to report on the potential number of units and level of affordability that may have been possible for an Inclusionary Zoning policy considering the pre-Bill 108 policy framework and the feedback received through public consultation. These parameters have been reflected in the updated Inclusionary Zoning Assessment Report analysis.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.PH10.3>

At its meeting of December 17, 2019, City Council adopted the HousingTO 2020-2030 Action Plan. Action 53 of the HousingTO Action Plan is to: 'implement Inclusionary Zoning to ensure new housing opportunities are targeted to low and moderate-income households, and affordability is provided long-term'.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.PH11.5>

COMMENTS

Provincial Policy Framework

The *Planning Act* (Section 2) identifies the adequate provision of a full range of housing, including affordable housing, as a provincial interest. The Act also directs that municipal Official Plans contain such policies and measures as are practicable to ensure the adequate provision of affordable housing.

On April 11, 2018, amendments to the *Planning Act* and Ontario Regulation 232/18 were enacted to enable municipalities to implement Inclusionary Zoning. Subsection 16(9) of the *Planning Act* requires that municipalities prepare an assessment report prior to adopting Inclusionary Zoning policies and the Regulation requires that the assessment report be considered as part of the development of Official Plan policies. The regulation also requires that Official Plan policies set out an approach to authorizing Inclusionary Zoning, including addressing key policy matters. Only the Minister of Municipal Affairs and Housing may appeal Inclusionary Zoning Official Plan policies and implementing zoning to the Local Planning Appeal Tribunal.

<https://www.ontario.ca/laws/regulation/180232>

Bill 108 (the More Homes, More Choice Act, 2019) made changes to the *Planning Act* that limit the City's use of Inclusionary Zoning to Protected Major Transit Station Areas or areas where a Development Permit System has been ordered by the Minister. As a result of this change, an additional planning framework approved by the Minister must be in place in order to implement Inclusionary Zoning requirements. It is not possible to quantify the number of affordable units that could have been achieved through

Inclusionary Zoning in a pre-Bill 108 framework, given the large variation in development that is currently taking place within and across different areas of the city. However, Bill 108 has limited where Inclusionary Zoning can apply and delayed the implementation of Inclusionary Zoning.

Bill 108 also introduced changes to the way the City would be able to finance and deliver community infrastructure. These changes proposed to replace Section 37 of the *Planning Act* with a new community benefits authority/charge (CBC), proposed significant changes to parkland dedication and proposed changes to the list of services eligible to be funded through development charges. Previously, municipalities were permitted to use Section 37 with Inclusionary Zoning. Proposed regulatory matters relating to the community benefits authority were released by the Ministry of Municipal Affairs and Housing on February 28, 2020 for a 52 day consultation. To date this regulation has not been approved.

Bill 197, the COVID-19 Economic Recovery Act, 2020, received Royal Assent on July 21, 2020. The Bill amends some provisions, and reverses a number of proposals that were introduced by Bill 108. Included in the amendments are modified development charges, rolled back changes to parkland dedication and new community benefits charge provisions intended to give municipalities flexibility to fund community services for new developments. Bill 197 also gave the Minister enhanced order-making powers, including powers for the Minister to require Inclusionary Zoning in the development or redevelopment of specified lands, buildings or structures outside of the Greenbelt.

The Provincial Policy Statement, 2020 (PPS, 2020) took effect on May 1, 2020 and provides policy direction on matters of provincial interest related to land use planning and development. The PPS, 2020 directs that planning authorities shall provide for an appropriate range and mix of housing options to meet projected market-based and affordable housing needs of current and future residents, including establishing and implementing minimum targets for the provision of housing which is affordable to low and moderate income households and which aligns with housing and homelessness plans.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 came into effect on May 16, 2019 and proposed Amendment 1 was released by the Province on June 16, 2020 for a 45 day comment period. The Growth Plan (2019) contains policies to support the development of affordable housing and a diverse range of housing options to accommodate the needs of all household sizes and incomes, at all stages of life. Policy 2.2.4.9.a) of the Growth Plan directs that development within all major transit station areas (MTSAs) will be supported, where appropriate, by planning for a diverse mix of uses, including second units and affordable housing, to support existing and planned transit service levels. The Council-adopted work program report on the Growth Plan Conformity and Municipal Comprehensive Reviews includes estimated timelines for delineating MTSAs and undertaking any additional work required to meet the requirements of the *Planning Act* for PMTSAs.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.PH14.4>

2019 Consultation Feedback

City staff consulted broadly on proposed Inclusionary Zoning policy directions in 2019. Consultation included stakeholder meetings, public open houses, an online survey, written submissions, Do-It-Yourself Workshops and a speaker's event. Across consultations, feedback generally identified a 99 year or permanent affordability period as the top priority for Inclusionary Zoning. Many stakeholders and members of the public also called for revisions to the definition of “affordable” to better reflect residents’ incomes.

Other common feedback from the consultations included:

- affordable housing requirements should apply to a percentage of the entire development as opposed to a percentage of the density uplift;
- ensure that family-sized affordable units (i.e. two- and three-bedroom units) would be secured through Inclusionary Zoning;
- lower requirements should apply for purpose-built rental projects, as Inclusionary Zoning could further deter rental units from being built;
- offer a menu of options similar to the New York City approach, where fewer units with deeper affordability or more units with more moderate affordability could be provided for any given project;
- some supported exemptions for mid-rise development given that the development economics are challenging even without affordable housing requirements, while others suggested applying Inclusionary Zoning to development with as few as 10 units; and
- a clear transition period should be laid out to allow land values to adjust and to support continued project viability.

At the speaker's event held in November 2019, representatives from New York City and Boston affirmed the need to rely on a feasibility analysis to determine Inclusionary Zoning requirements and recommended that Toronto secure long-term affordability and provide a predictable framework that can be implemented and administered.

A detailed summary of the consultation activities and feedback received on the proposed policy directions was presented to this Committee in November 2019 and is available here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.PH10.3>

Structure of the Inclusionary Zoning Framework

The Planning Act and provincial Inclusionary Zoning regulation set out which aspects of the Inclusionary Zoning framework are required to be outlined in the Official Plan or the Zoning By-law or both. While some matters are required to be addressed, other matters may be addressed at the municipality’s discretion.

Both the Official Plan and Zoning By-law must address the:

- number of units or gross floor area required to be affordable;
- affordability period; and
- price or rent of the affordable units when they are sold or leased

In addition to the above, the Official Plan must also set out:

- goals and objectives for Inclusionary Zoning;
- locations and areas where IZ by-laws would apply (provided they are within a Protected Major Transit Station Area or Development Permit System area ordered by the Minister);
- the range of household incomes for which affordable housing units would be provided;
- the minimum size of development to which an IZ by-law would apply (not to be less than 10 residential units);
- the range of housing types and sizes of the affordable housing units;
- how measures and incentives would be determined;
- the approach to determine the percentage of the net proceeds to be distributed to the municipality from the sale of an affordable housing unit, including how net proceeds would be determined;
- the circumstances in and conditions under which offsite units would be permitted (including that offsite units shall be located in proximity to the proposed development, located on lands subject to an IZ by-law; and cannot be used to satisfy the IZ requirement of the offsite development);
- the circumstances in which an offsite unit would be considered to be in proximity to the proposed development; and
- the approach for the procedure to monitor and ensure that the required affordable housing units are maintained for the required period of time.

The Zoning By-law must include a requirement for the owner to enter into agreements with the municipality ensuring continued compliance with the by-law requirements. At the municipality's discretion, the Zoning By-law may also include:

- requirements and standards for the affordable housing units;
- measures and incentives; and
- a requirement for a portion of the net proceeds from the sale of an affordable housing unit to be distributed to the municipality. If so, the by-law shall set out the percentage of the net proceeds to be distributed to the municipality, which shall not exceed 50 per cent.

Any site-specific amendments to the Inclusionary Zoning Official Plan policy or Zoning By-law would need to be approved by City Council and could only be appealed to the Local Planning Appeal Tribunal by the Minister of Municipal Affairs and Housing. The Committee of Adjustment does not have jurisdiction to make decisions on a minor variance from a Zoning By-law for Inclusionary Zoning.

Implementation Guidelines

The City's Inclusionary Zoning Official Plan policy and Zoning By-law will be supported by implementation guidelines that will outline implementation principles and provide further guidance for implementing Inclusionary Zoning. For example, guidance on the size and functional layout of affordable units, accessibility of the affordable units in compliance with the Ontario Building Code, and further details on what would be secured in legal agreements with the City are some of the items that will be addressed in the guidelines. These guidelines will be developed in the context of final

recommended policies and zoning and with input from various stakeholders to ensure the implementation of clear and transparent outcomes.

Assessment Report Updates

The *Planning Act* requires the City to prepare an assessment report and make it available to the public before Council adopts Official Plan policies for Inclusionary Zoning. Ontario Regulation 232/18 requires the assessment report to include the following information, which is to be considered in the development of Official Plan policies: an analysis of demographics, household incomes, housing supply, and housing need and demand; current average market prices and rents; and analysis of the potential impacts of Inclusionary Zoning on the housing market.

A draft assessment report was prepared and presented to Planning and Housing Committee in May 2019 and was based on a pre-Bill 108 legislative framework. The assessment report is made up of two main components: 1. Housing Need and Demand Analysis and 2. Financial Impact Analysis.

Updates to the Assessment Report have been made to factor in the latest available market data, provincial changes to the land use planning framework introduced through Bill 108, and input received through public and stakeholder consultation. The updated analysis has helped to inform the development of the Draft Official Plan Amendment. The updated Housing Need and Demand Analysis and Financial Impact Analysis are available at toronto.ca/inclusionaryzoning.

1. Housing Need and Demand Analysis

In 2019, the City conducted research of key housing indicators from the two previous census periods (2006 and 2016), as well as recent CMHC and market data, to identify trends over roughly the past 10 years. This analysis has been updated to include 2019 rental market, resale market, and new condominium sales data.

Looking at data overall for the City and by census tract for both owners and renters, a number of key trends stand out. In addition to the trends identified in 2019, the recent analysis shows that rents in Toronto are continuing to rise faster than incomes with a 7.3% increase in average market rent across all private rental housing unit types in 2019 compared to a 2.1% increase in the Consumers Price Index (CPI). The vacancy rate did improve marginally, from 1.1% in 2018 to 1.5% in 2019, however this is still well below a healthy vacancy rate of 3%. Given that some of the lowest vacancy rates are in private rental housing with rents below 80% of average market rent, many low- and moderate-income households looking for housing today are still left with little choice except to pay a significant percentage of their income on rent.

An analysis of median incomes compared to 2019 asking rent and asking price data continues to show that condominium ownership and asking market rents are unaffordable to many of the City's renter households. Table 1 below shows the income needed to afford average asking prices for resale and new condominium units and Table 2 indicates the income needed to afford average asking market rents for condominium and purpose-built rentals and CMHC average market rents. Table 2

demonstrates that the 2019 estimated median income for renter households (\$49,482) could only afford the CMHC average market rent for a purpose-built rental bachelor unit. This income level could not afford the average market rents for larger unit types, nor the average asking market rents or average ownership prices.

Table 1: Income Needed to Support Typical Prices (2019)*

	Resale Condo Prices	Income Needed	New Condo Prices	Income Needed
Bachelor	\$440,535	\$102,109	\$413,505	\$95,844
One-Bedroom	\$544,830	\$126,283	\$459,450	\$106,493
Two-Bedroom	\$674,798	\$156,407	\$689,175	\$159,740
Three-Bedroom	\$654,289	\$151,654	\$872,955	\$202,337
Total	\$600,521	\$139,191	\$809,935	\$187,730

Table 2: Income Needed to Support Typical Rents (2019)**

	Asking Rent: Condo Rentals***	Income Needed	Asking Rent: Purpose Built Rentals****	Income Needed	CMHC Average Market Rent*****	Income Needed
Bachelor	\$1,931	\$77,240	\$1,356	\$54,240	\$1,148.00	\$45,920
One-Bedroom	\$2,141	\$85,640	\$1,761	\$70,440	\$1,374.00	\$54,960
Two-Bedroom	\$2,737	\$109,480	\$2,102	\$84,080	\$1,591.00	\$63,640
Three-Bedroom	\$2,976	\$119,040	\$2,593	\$103,720	\$1,759.00	\$70,360
Total	\$2,418	\$96,720	\$1,874	\$74,960	\$1,472.00	\$58,880

* Income needed for ownership housing prices based on:

- Spending maximum of 30% of gross income on housing costs (the housing affordability threshold)
- Standard inputs for amortization period, down payment, interest rate and taxes

** Income needed for rental housing based on spending maximum of 30% of gross income on housing costs (the housing affordability threshold)

*** Asking rents for condo rentals as per Q4 2019 Urbanation data

**** Asking rents for vacant purpose-built rentals as per CMHC data

***** CMHC average market rents represent average rents for both vacant and occupied purpose-built rental units

The strong and moderate market area analysis was updated to factor in 2019 asking market rents and asking ownership price data, the City's development pipeline data up to Q4 2019 and the updated financial impact analysis results. This analysis is meant to identify different market areas across the city and their capacity to absorb Inclusionary Zoning requirements while ensuring continued development viability. A map generally identifying the strong and moderate market areas is included in Attachment 1.

In order to be considered a strong market, a geographic area had to achieve at least fifty percent of a minimum number of indicators that were assessed for that area. Indicators were based on resale prices for condominium apartments, resale price escalation, new condominium prices, new condominium price escalation, new rental prices, intensity of development activity measured by the number of approved and proposed units in the development pipeline, and the results of the financial viability analysis. Data was not uniformly available for all areas, as not every market had new condominium and rental projects transactions during the 5 year time period that was analyzed. Based on the market criteria, strong markets are still generally within the boundaries of the former City of Toronto and now also include North Toronto, Southwest Scarborough and Scarborough City Centre, Don Mills, and York Mills, and South Etobicoke.

The market analysis also led to the categorization of certain areas of the City as moderate markets because they did not meet the test for a strong market area, but are still areas where significant new development is being supported. Etobicoke Centre and now the upper North Yonge Corridor are examples where the planning frameworks provide for significant new development, yet price growth is not strong compared to the City as a whole.

As part of the legislative requirements, market areas are to be assessed at least every five years in order to evaluate whether the market has changed over the past five years and if Inclusionary Zoning requirements should be adjusted and/or applied to new areas.

Of note, the analysis described above does not consider post-COVID-19 housing data. Staff will continue to monitor the impacts of COVID-19 to the housing market and will share preliminary findings on short-term impacts throughout the consultation. Staff will report back on these housing market impacts as part of the recommended final Inclusionary Zoning policy and zoning approach.

2. Financial Impact Analysis

The City retained N. Barry Lyon Consultants Limited (NBLC) in 2018 to conduct a residual land value assessment of the impact of a range of Inclusionary Zoning requirements on 11 geographies across the City. NBLC was retained again in early 2020 to provide an update to the financial impact analysis that includes updates to key market and cost parameters in the analysis and tests revised policy parameters based on feedback received through consultation.

Revisions made to the model include applying the Inclusionary Zoning requirement to the total residential Gross Floor Area (GFA) instead of the density uplift and considering both the current Section 37 and Section 42 regime as well as the proposed Community Benefits Charge regime and their impact on development. Based on the results produced, both regimes have a similar impact on development in the Inclusionary Zoning context. Further review may be required once the Bill 108 regulations have been implemented, along with any emerging Community Benefits Charge bylaw that may be implemented by the City.

The analysis looked at the predominant built form and as-of-right and supportable densities in order to assess potential development for an area. Updated heights and densities for the Yonge - Eglinton area were considered based on the provincially approved OPA 405, which resulted in improved viability results for the market area.

In terms of revisions to policy parameters, the updated financial impact analysis now assumes an affordability period of 99 years and affordable rents secured at 80% of average market rent (AMR). This is a shift from 25 years of affordability and 100% of AMR as originally tested. The analysis assumed that no financial incentives would be provided to support the Inclusionary Zoning requirement.

For this analysis, a city-wide average affordable rent of \$1,178 per month (80% of 2019 CMHC average market rent for all bedroom types) was used as a proxy to reflect an emerging updated Official Plan definition of affordable rent, which proposes to add an income-based approach to the definition. Following consultation on the proposed definition, this analysis will be further reviewed in the context of the final proposed affordable rent definition to ensure financial viability is maintained.

The findings of the financial impact analysis show that the Downtown, Yonge Corridor, the waterfront areas and in North York along the Subway lines have very strong market fundamentals and the testing conducted shows evidence that the land market should have capacity to absorb the impact of an Inclusionary Zoning policy as proposed in this report without jeopardizing development viability.

Of note, while updates were made to the market data for each test site, this data was obtained prior to the impact of COVID-19 on the housing market and as such the market impacts of COVID-19 were not considered in this analysis.

COVID-19 and 3-Year Inclusionary Zoning Review

The draft Inclusionary Zoning requirements were also developed in consideration of the ongoing COVID-19 health pandemic and Toronto's rebuild and recovery efforts. COVID-19 has put a spotlight on the need to secure long term affordable housing but has also resulted in uncertainty around short and long-term impacts to Toronto's housing market. The draft amendments represent a balanced approach that would establish a foundational Inclusionary Zoning framework.

Given ongoing uncertainty surrounding COVID-19 impacts and recovery, staff are recommending that the assessment report and policy requirements be reviewed 3 years after the policy and zoning have come into force and effect. Provincial legislation requires the assessment report be updated at least once every 5 years. A 3-year review of the policy would allow for monitoring as market conditions evolve and earlier adjustments based on COVID impacts and the final community benefits charge framework, however there would be no requirement to amend the policy at that time.

Draft Inclusionary Zoning Official Plan and Zoning By-law Amendments

Draft Inclusionary Zoning Official Plan and Zoning By-law Amendments have been developed based on the updated assessment report analyses and feedback received

through the 2019 consultations. The draft amendments reflect the requirements set out in the Planning Act and Ontario Regulation 232/18 under the Planning Act.

Key components of the draft Inclusionary Zoning Official Plan and Zoning amendments include:

- **Geographic Application:** Inclusionary Zoning would apply to development in Protected Major Transit Station Areas located within the Strong or Moderate Market Areas identified in Attachment 1
- **Affordability Period:** units would remain affordable for 99 years, beginning from the date the unit is first occupied
- **Depth of Affordability:** units would be secured at affordable rents or affordable ownership prices. Note that a proposed draft revised definition of affordable rent is anticipated to be advanced in a report to the September meeting of the Planning and Housing Committee. A proposed draft revised definition of affordable ownership was consulted on in 2019 along with the proposed Inclusionary Zoning policy directions. At least 10% of the affordable rental gross floor area would be secured at rents based on 80% of the affordable rent definition
- **Unit Set Aside:** 5-10% of the total residential gross floor area of a condominium development would be secured as affordable housing depending on whether the development is located in a strong or moderate market area. Lower requirements would apply for purpose-built rental development.

Inclusionary Zoning is proposed to be implemented in Protected Major Transit Station Areas located within Strong and Moderate Market Areas. These are areas in the city that have experienced the greatest amount of new housing supply, significant price escalation and growth in rental prices, and are generally areas with the highest number of renter households paying 50% or more of their income towards rent. Strong Market Areas include much of the former City of Toronto, North Toronto, Southwest Scarborough and Scarborough City Centre, Don Mills and York Mills, and South Etobicoke. Moderate Market Areas include Etobicoke Centre and North York Centre. Inclusionary Zoning is not proposed to be implemented in areas of the city experiencing little growth and where development economics cannot support the inclusion of affordable housing units without financial incentives.

Long-term affordability and deeper affordability have been prioritized in the draft Inclusionary Zoning framework. The financial impact analysis and experience from other jurisdictions suggest that the number of affordable units secured, the affordability period and the depth of affordability must be balanced in order to ensure continued development viability. For example, in some of the market areas tested in the financial impact analysis, extending the affordability period from 25 to 99 years or deepening the affordability from 100% of average market rent (AMR) to 80% AMR could result in challenged development viability if these changes are not balanced by a lower overall number of secured affordable housing units.

Other components of the draft Inclusionary Zoning framework include:

- **Legal Agreements:** Development located within an Inclusionary Zoning area would be required to enter into legal agreements with the City that are registered on title. These agreements would secure the timely delivery of the affordable housing units, ensure units remain affordable over time, and outline reporting requirements.

- **Family-sized Units:** affordable units will reflect the unit mix of the market component of the development, as appropriate, to achieve a balanced mix of unit types and sizes and support the creation of affordable housing suitable for families.
- **Offsite:** Offsite units may be secured at the discretion of the City, provided the units meet proximity and occupancy requirements. A Zoning By-law Amendment application would need to be approved by City Council if affordable units are proposed offsite.
- **Incentives:** any financial or regulatory incentives provided by the City will only be considered where a development or redevelopment proposes to exceed the Inclusionary Zoning requirements (i.e. provide more affordable housing units or secure deeper levels of affordability).
- **Exemptions:** development with less than 100 residential units and less than 8,000 square metres of residential gross floor area located within the City's downtown or central waterfront areas; development with less than 140 residential units and less than 10,000 square metres of residential gross floor area in all other Inclusionary Zoning areas; residential care homes and institutional student residences; and development specified in the provincial regulation, such as non-profit developments, would be exempt from Inclusionary Zoning requirements.

The affordable housing requirements have been calibrated to support development viability without the need for incentives, such as fee waivers or density bonuses. As well, the Inclusionary Zoning requirement would apply to a percentage of the total residential gross floor area in the development and not to the density uplift. The financial impact analysis concluded that an Inclusionary Zoning framework without incentives could be viable in stronger market areas where new developments are already optimizing height and density. In these stronger market areas, the impact of Inclusionary Zoning would be largely absorbed by reduced land values. As land values adjust, the need for incentives diminish, especially when a transition approach is considered.

The provincial Inclusionary Zoning regulation includes minimum transition provisions, including exemptions for development:

- where an application for an Official Plan amendment and/or a Zoning by-law amendment were made prior to the date that City Council adopts the Inclusionary Zoning Official Plan amendment provided that an application has also been made for approval of a plan of subdivision or condominium approval; or
- where an application for site plan approval or a building permit has been made for the subject site prior to the date that an Inclusionary Zoning by-law is adopted by City Council

The draft zoning by-law amendments outline additional transition provisions that would exempt complete applications for a zoning by-law amendment, minor variance, or site plan approval and building permit applications filed on or before January 1, 2022. These provisions would formalize the anticipated inherent transition period resulting from Bill 108 changes to limit Inclusionary Zoning to Protected Major Transit Station Areas (PMTSAs). Official Plan and Zoning amendments for Inclusionary Zoning adopted by Council could only be implemented in PMTSAs that have been adopted by Council and approved by the Minister of Municipal Affairs and Housing. There are currently about 180 Major Transit Station Areas (MTSAs) across the city and 0 Protected Major Transit Station Areas (PMTSAs). City Planning presented a report to the June meeting of

Planning and Housing Committee outlining a work plan and estimated timelines for delineating MTSAs and undertaking any additional work required to meet the requirements of the *Planning Act* for PMTSAs.

A detailed description of the draft Inclusionary Zoning framework is outlined in Attachment 3.

Consultation Approach and Next Steps

This report recommends that planning staff undertake public and stakeholder consultation on the draft Official Plan and Zoning by-law Amendments. Consultation is proposed to take place in the fall, along with consultations on the proposed draft revised definition of affordable rental housing.

The purpose for this second round of consultation is to share information on the draft Inclusionary Zoning policy and zoning amendments; report back on what we heard from the first round of engagement and how this feedback was used to inform the draft policy and zoning amendments; and continue to collect public and stakeholder feedback to refine the Inclusionary Zoning framework. In addition, these consultations will assist in the development of guidelines to support the policy framework and its implementation. As Inclusionary Zoning is new to Ontario and to the City of Toronto, staff will work with stakeholders and the public to continue to identify and resolve implementation concerns and questions. Through this additional round of consultation on the draft Inclusionary Zoning policies and zoning, staff will be able to canvass and determine how best to advance the implementation of the policy framework.

Consultation will include online public engagement and re-engaging the Inclusionary Zoning Expert Advisory Committee, Do-It-Yourself workshop facilitators, and stakeholders through virtual meetings. This stakeholder engagement will continue to ensure a broad group of perspectives are considered, including the development industry, non-profit housing organizations, housing and homelessness advocacy groups, residents and tenant associations, indigenous housing groups, and equity seeking groups among others. Accessibility of engagement opportunities will be considered, especially in light of the ongoing COVID-19 pandemic. The consultation program will seek to ensure all residents and other stakeholders have an opportunity to participate and provide feedback, by offering engagement options that will allow residents to participate in different ways.

The results of the stakeholder and public consultation will inform the final recommended Official Plan Amendment and Zoning By-law Amendments, which are targeted to be brought to the Planning and Housing Committee in the first half of 2021. This would provide an opportunity to review 2020 market data and consider impacts of the COVID-19 pandemic to the housing market as part of the recommended final Inclusionary Zoning policy approach. Implementation guidelines would also be developed in the context of the final recommended policies and zoning. The Official Plan Amendment and Zoning By-law Amendment do not require Ministerial approval and may only be appealed to the Local Planning Appeal Tribunal by the Minister of Municipal Affairs and Housing. Once adopted, Inclusionary Zoning requirements can only be implemented in Protected Major Transit Station Areas approved by the Minister.

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SIGNATURE

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ATTACHMENTS

Attachment 1: Draft Official Plan Amendment for Inclusionary Zoning
Attachment 2: Draft Zoning By-law Amendment for Inclusionary Zoning
Attachment 3: Description of Draft Inclusionary Zoning Framework