

Inclusionary Zoning Official Plan Amendment, Zoning By-law Amendment and Draft Implementation Guidelines - Supplementary Report #2

Date: November 8, 2021

To: City Council

From: Chief Planner and Executive Director, City Planning

Wards: All

SUMMARY

This Supplementary Report recommends the Official Plan and Zoning By-law Amendments attached to the report from the Chief Planner and Executive Director, City Planning dated October 15, 2021 and November 2, 2021 be replaced with updated versions attached to this report. Minor technical changes are recommended to address comments raised from Ministry of Municipal Affairs and Housing staff sent on November 5th, 2021.

Staff consulted with the Ministry of Municipal Affairs and Housing throughout the development of the proposed inclusionary zoning (IZ) framework. This included participation from Ministry staff at four stakeholder meetings in July 2019, September 2020, May 2021, and July 2021, presentations to Ministry staff on the proposed policy in June 2019, October 2020, June 2021 and October 2021, and circulation of draft materials through the One-Window Planning Service.

Staff are proposing minor changes to the inclusionary zoning Official Plan and Zoning By-law Amendments in response to new comments provided by Ministry staff on November 5th, 2021 to clarify the implementation of inclusionary zoning in Protected Major Transit Station Areas (PMTSAs), the approach for the procedure for ensuring the units remain affordable, net proceeds for the sale of an affordable unit, and transition. All other provisions remain the same as the By-laws attached to the November 2, 2021 report from the Chief Planner and Executive Director with these minor technical exceptions.

Staff continue to recommend approval of the proposed Official Plan Amendments and Zoning By-law Amendments, as revised in the following recommendations listed below. These proposed amends provide additional clarification on matters relating to implementation of the policy.

Planning and Housing Committee's decision and the associated staff report (October 15, 2021) and supplementary report (November 2, 2021) may be found at <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH28.1>

RECOMMENDATIONS

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

1. City Council delete recommendations 1 and 2 from Planning and Housing Committee and replace with the following:

"1. City Council adopt the Official Plan Amendment included as Attachment 1 to the November 8, 2021 report from the Chief Planner and Executive Director, City Planning.

2. City Council adopt the Zoning By-law Amendment included as Attachment 2 to the November 8, 2021 report from the Chief Planner and Executive Director, City Planning.

FINANCIAL IMPACT

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

DECISION HISTORY

At its meeting of October 28, 2021, Planning and Housing Committee considered item PH28.1, Inclusionary Zoning Official Plan Amendment, Zoning By-law Amendment and Draft Implementation Guidelines dated October 15, 2021. The staff report recommended adoption of the Official Plan Amendment and Zoning By-law Amendment for inclusionary zoning. Planning and Housing Committee submitted the item to City Council with recommendations and referred a motion to the City Solicitor with the request that the City Solicitor report directly to the November 9, 2021 meeting of City Council on the legal implications of the motion to adjust the set aside rates and phase-in schedule of the policy.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH28.1>

COMMENTS

This report recommends technical revisions to the proposed Official Plan Amendments and Zoning By-law Amendments in response to new comments received from Ministry of Municipal Affairs and Housing staff the evening of November 5, 2021. These revisions would provide clarity around application of inclusionary zoning, the approach

to the procedure for ensuring units remain affordable during the 99 year period and requirements for sharing of net proceeds.

Applicability

The proposed revisions to the Official Plan Amendment include revising Official Plan policy 5.1.8.2 to add the words italicized so that it now reads:

"Zoning by-laws for inclusionary zoning, pursuant to the Planning Act and in accordance with the policies of this Plan, may be enacted to require affordable housing to be included in development or redevelopment located within an IZ Market Area as shown on Map 37 *and an approved Protected Major Transit Station Area.*"

This addition would clarify that inclusionary zoning will only be implemented within a Protected Major Transit Station Area that is also located within an IZ market area. Although this requirement already exists in the Planning Act, explicit inclusion in the Official Plan Amendment would provide additional clarity that inclusionary zoning will not be implemented in areas within an IZ market area but outside of a Protected Major Transit Station Area.

The proposed revisions to the Zoning By-law Amendment for inclusionary zoning would amend Regulation 600.30.15. to explicitly reference the transition date as the later of September 18, 2022 or notice of approval of a PMTSA by the Minister. These revisions would clarify that should a PMTSA in an IZ Market Area not be approved by the Minister by September 18, 2022, inclusionary zoning requirements would not apply. While implementation of inclusionary zoning was always contemplated to be dependent on Minister's approval of PMTSAs, the proposed changes would make this explicit in the Official Plan Amendment and Zoning By-law Amendment.

Approach to Monitoring Procedure

The proposed revisions to the Official Plan Amendment include revising Official Plan policy 5.1.8.1 to add the words italicized so that it now reads:

"1. Inclusionary zoning will be used to increase the supply of affordable housing for low to moderate income households, continue to support a diverse range of housing supply and support the development of more inclusive and equitable communities. *To ensure the affordable units secured through inclusionary zoning remain affordable during the affordability period, owners will be required to enter into agreements registered on title which will include requirements for ongoing administration, reporting, and monitoring of the affordable units. In accordance with the Planning Act, Council will adopt a procedure for administration and monitoring outlined in implementation guidelines that will address elements including: administration of affordable rental units and affordable ownership units (including access plan requirements, household eligibility, income eligibility, marketing, screening and selection process, rent increases, resale process and price increases) and regular reporting requirements.*"

This addition would clarify that for the purposes of Provincial Regulation O. Reg. 232/18 subsection 3(2), the approach for the procedure required in Section 35.2(3) of the

Planning Act will be to include requirements for ongoing administration, monitoring and reporting of the affordable housing units over the 99 years in legal agreements registered on title, with additional administration, monitoring and reporting requirements to be outlined in the inclusionary zoning implementation guidelines. As previously noted in the staff report dated October 15, 2021, the draft implementation guidelines are proposed to form the basis of further consultation with direction to report back with final implementation guidelines by the first half of 2022. The guidelines will be considered by Planning and Housing Committee and City Council.

Net Proceeds

The proposed revisions relating to net proceeds would amend Official Plan policy 5.1.8.9 h) so that it now reads:

"5.1.8.9. For development or redevelopment subject to an Inclusionary Zoning By-law, one or more agreements that are registered on title to the lands shall be entered into with the City securing:

h) where an affordable ownership unit is sold at market price the City would receive 50% of the net proceeds of the sale, to be reinvested in affordable housing, with net proceeds determined based on the difference between the purchase price and the resale price of the affordable ownership unit, less any legal, administration or real estate commission fees."

The proposed revisions to the Zoning By-law Amendment for inclusionary zoning would replace Regulation 600.30.10 Inclusionary Zoning Overlay (5)(B) so that it now reads:

"(5) Net Proceeds from Sale of Affordable Housing Unit
On a lot which is located entirely within an area identified as Inclusionary Zoning Area IZ1, Area IZ2 or Area IZ3 on the Inclusionary Zoning Overlay Map:

(B) where an affordable ownership housing unit is sold at market price the City will receive 50% of the net proceeds of the sale."

In response to comments received by Ministry staff on November 5th, 2021, the proposed changes indicate that the City will receive 50% of the net proceeds of sale upon a unit being sold at market price.

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SIGNATURE

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City Planning Division

ATTACHMENTS

Attachment 1: Proposed Official Plan Amendment
Attachment 2: Proposed Zoning By-law Amendment