

Recommended Framework for the Community Infrastructure and Housing Accelerator (CIHA) Tool

Date: October 11, 2023

To: Planning and Housing Committee

From: Chief Planner and Executive Director, City Planning

Wards: All

SUMMARY

This report recommends a framework for the use of the Community Infrastructure and Housing Accelerator ("CIHA") tool. The CIHA provides municipalities the opportunity to request the Minister of Municipal Affairs and Housing to issue a zoning order. The proposed framework builds on the draft framework considered by the Planning and Housing Committee in April 2023 ([2023.PH3.9](#)) and incorporates input from engagement activities undertaken with City and agency staff, non-profit and for-profit residential developers, long term care developers, and other municipalities who have implemented a CIHA Order request.

The proposed framework includes a set of criteria to determine whether a proposed project is eligible for a CIHA Order and identifies types of projects that should be prioritized for the first phase of implementation. The framework also includes a review process for applications where a CIHA Order would be requested.

The CIHA tool provides an opportunity to expedite the development of projects which meet the City's priorities, including affordable rental housing, long term care homes, and other community infrastructure.

RECOMMENDATIONS

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

1. City Council direct the Chief Planner and Executive Director, City Planning to use the recommended framework and process for the Community Infrastructure and Housing Accelerator (CIHA) tool set out in this report to assess any CIHA Order requests.
2. City Council direct the Chief Planner and Executive Director, City Planning to monitor the use of the CIHA tool, and report back, as needed, with any required changes to the recommended framework and process.

EQUITY STATEMENT

The use of the Community Infrastructure and Housing Accelerator tool could help accelerate the delivery of homes across the full housing spectrum, including new emergency shelters, supportive and transitional housing, long-term care, social housing, and affordable housing. This is predicated on the assumption that the Minister will act expeditiously and issue such an Order upon the request of the City.

The use of the CIHA tool would help support the HousingTO 2020-2030 Action Plan which envisions a City in which all residents have equal opportunity to develop to their full potential and is centred on a human rights based approach to housing. This approach recognizes that housing is essential to the inherent dignity and well-being of a person and to building inclusive, healthy, sustainable, and livable communities. It also recognizes that resources must be prioritized to help those most in need.

The CIHA tool would also support Council's increased affordable housing target ([2023.EX7.2](#)) as well as the Housing Action Plan 2022-2026. These will help increase opportunities for people from equity-deserving groups to access safe, healthy, and adequate homes.

FINANCIAL IMPACT

There are no financial implications resulting from the recommendations included in this report.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

On May 5, 2021, City Council adopted a report on a Recommended Framework for the Use of Minister's Zoning Orders, including recommendations for the Provincial government when utilizing Ministers Zoning Orders ("MZOs") powers to protect local public interest and ensure accountability. A number of the City's recommendations for the use of MZO's were incorporated into the Framework and Guidelines for the use of a Community Infrastructure and Housing Accelerator.

<https://secure.toronto.ca/council/agenda-item.do?item=2021.PH22.8>

On May 11, 2022, City Council adopted a report responding to Bill 109: the More Homes for Everyone Act, 2022. The City Council decision included general support for the policies underpinning the Community Infrastructure and Housing Accelerator tool provided that it, and the Minister's Zoning Order powers, are utilized prudently and do not create a parallel approval process with little consultation and diminished adherence to provincial policy.

<https://secure.toronto.ca/council/agenda-item.do?item=2022.PH33.11>

On January 19, 2023, Planning and Housing Committee considered item PH1.7 requesting the Chief Planner and Executive Director, City Planning, to report back on the feasibility of applying the Community Infrastructure and Housing Accelerator tool to Housing Now sites, along with other priority affordable housing projects, including but not limited to the Quayside project.

<https://secure.toronto.ca/council/agenda-item.do?item=2023.PH1.7>

On April 27, 2023, the Planning and Housing Committee adopted a Proposed Framework for the Community Infrastructure and Housing Accelerator (CIHA) tool, including a recommendation to use the proposed framework for any Community Infrastructure and Housing Accelerator requests in the interim and advance such requests to City Council approval where appropriate.

<https://secure.toronto.ca/council/agenda-item.do?item=2023.PH3.9>

COMMENTS

Overview

Amendments to the Planning Act have established a process whereby a municipally may request that the Minister of Municipal Affairs and Housing issue a zoning order. The Guidelines, among other matters, set out the types of development that may be suitable for such an order and refers to this new tool as the Community Infrastructure and Housing Accelerator (CIHA).

One of the primary benefits of a CIHA Order is that the legislation does not expressly limit the type of conditions that the Minister can place on a CIHA Order. This may allow for agreements that secure community benefits over and above what may otherwise be secured through the Zoning By-law Amendment (ZBLA) process. From the City's perspective, this would be a significant benefit of a CIHA Order.

Another benefit of a CIHA Order is that they are not subject to appeal, which provides project certainty for the applicant as well as certainty around the timely delivery of community benefits.

However, there are no legislated timelines for the Minister to issue a CIHA Order. This means that there is a level of uncertainty as to when an Order might be issued. The Minister may also refuse to issue a CIHA Order or amend the Order from what was requested. As such, the timelines for and the nature of the Minister's decision on a request for a CIHA Order are beyond the City's control.

Approach to Developing the Recommended Framework

The proposed framework for requesting a CIHA Order outlined below builds on the proposed framework considered by the Planning and Housing Committee in April 2023. The proposed framework also incorporates lessons learned from the Concept 2 Keys (C2K) Priority Development Review Stream projects and incorporates input from stakeholder engagements.

Stakeholder Consultation Feedback

Stakeholder engagements were undertaken with a total of 55 stakeholders, from July to September 2023, including City and agency staff, private and non-profit residential developers, representatives of long-term care developers, school boards, and other municipalities with experience requesting a CIHA Order. The purpose of these engagements was to identify and better understand the potential uses, opportunities, and challenges of using the CIHA tool. The consultations highlighted the following feedback:

City and Agency Staff

- There is an opportunity to build on the C2K Priority Development Review Stream criteria and process;
- The initial phase of implementation should prioritize projects which are City-initiated and/or on City-owned land;
- Technical studies, including servicing studies, should be undertaken at the beginning of the process or, at a minimum, as a condition of the CIHA Order;
- There is an opportunity to build in more engagements in the Pre-Application Consultation (PAC) process;
- There is an opportunity for more flexible timelines; and,
- There is a need for an alternative process if the Minister does not respond or refuses a CIHA Order request.

Private and Non-Profit Stakeholders

- Having dedicated City staff members assigned to a file (at both the zoning and site plan stages) is helpful in facilitating the development review process;
- Projects that would struggle financially, such as purpose-built rental housing and affordable housing, should be considered;
- Projects which meet other City priorities, such as energy efficiency and sustainability, should be considered;
- Having a Council-approved framework rather than a case-by-case approach would provide more certainty and transparency; and,
- There are concerns regarding the lack of community support for a project if public consultation is not included in the process.

Other Municipalities

- The process undertaken for requesting a CIHA Order was very similar to the typical ZBLA process, particularly with regard to consultations;
- Engagement with Indigenous peoples was an important component of the process;
- The timelines for the CIHA Order request process were shorter than the typical development review process although more work was done at the beginning of the process;
- Engaging with Ministry staff from the beginning and throughout the process was extremely helpful; and,
- Ideally, technical studies should be completed at the beginning of the process rather than at the site plan application stage.

Proposed Framework for Using the CIHA Tool

Staff recommend that the following criteria be met for a project to be considered for a request for a CIHA Order. The criteria would apply to all projects, including City-led, non-profit initiated, or privately initiated projects.

1. Delivery of Community Benefits and Infrastructure: Requests for CIHA Orders should be restricted to projects that deliver community benefits well beyond what can be secured through the current approval process, including the value of benefits that can be secured as an in-kind Community Benefits Charge (CBC) contribution or through Official Plan and secondary plan requirements. This includes affordable rental housing and supportive housing projects, long-term care homes, and developments delivering needed community infrastructure. CIHA Orders may also be used for critical infrastructure projects, non-market developments, and projects with significant economic generating purposes.

- **Affordable Housing:** Where a CIHA Order is being considered for proposed projects initiated by the City, non-profit, and/or private sectors that include affordable rental or affordable ownership housing, the rents or ownership house prices of the affordable units must meet the City's Official Plan definitions and/or affordable rental housing program definitions and provide long term affordability (i.e., forty years at a minimum).
- **Purpose-built Rental Housing:** Projects initiated by the public or private sectors which support the goal of achieving Council's housing target of 17,500 new rent-controlled homes should also be considered for a CIHA Order. Securing new rent-controlled homes or purpose-built rental tenure would not be considered a community benefit, however the CIHA Order would allow these conditions to be applied to individual projects.

2. The requested zoning amendments must represent good planning. The content of a CIHA Order should be supported by principles of good planning, even in instances where it may not conform with Official Plan or Provincial policies.

3. The development will advance in a timely manner: The use of CIHA Orders should be limited to projects where the project proponent is committed to advancing the project in a timely manner, such as actively advancing site plan approval and building permits or seeking approvals in relation to a funding deadline. This requirement would help ensure that the community benefits secured are delivered in a timely manner.

4. The project is implementable via site plan: Council recommendations for CIHA Order requests should ensure that the proposed development can be implemented at the site plan level. This involves ensuring that a servicing analysis has been undertaken, and that any remaining issues can be addressed as part of site plan approval process and are secured as a condition of the CIHA Order.

Proposed Process for Requesting a CIHA Order

In general, the CIHA Order request process should be consistent with the ZBLA process, including incorporating requirements for pre-application consultation and holding a public meeting to ensure sufficient opportunities for input from stakeholders and the public and to mitigate risks related to addressing technical issues at a later stage in the process.

Building on the lessons learned from the Concept 2 Keys (C2K) Priority Development Review Stream, a dedicated interdivisional core review team should be identified to review applications for a CIHA Order request. This core review team would work collaboratively with development review staff (commenting partners) across divisions. The CIHA core review team could build on the current C2K priority review team to leverage the success and expertise of this team.

The following outlines the proposed process for requesting a CIHA order.

Pre-Application Stage

1. Mandatory Pre-application: As part of the City's mandatory pre-application process, at the same time that applicants request a Pre-Application Consultation (PAC) meeting, they may also identify if they are interested in going through the CIHA Order request process and demonstrate how the proposed project meets the identified criteria. This application would be reviewed by the CIHA core review team and commenting partners to confirm that it meets the criteria for considering a CIHA Order identified above.

Where the CIHA core review team is of the opinion that a CIHA Order is appropriate, the application would proceed through the CIHA Priority Stream rather than a ZBLA, or a combined ZBLA and Official Plan Amendment (OPA), process. Application fees for requesting a CIHA Order would be the same as those for a ZBLA, or a combined OPA and ZBLA, unless the proposed development is City-initiated or was approved for waivers and/or discounts through the Open Door Affordable Housing Program or a similar program.

2. Pre-Application Consultations: Prior to a formal submission and review, the applicant, with support from City staff, should undertake the following consultation activities to obtain input on the proposed development, and identify any issues that should be addressed prior to formal submission.

- **Engagement with Provincial Staff:** The applicant and City staff should consult with Ministry of Municipal Affairs and Housing staff to determine support for the proposed development and identify and address any potential issues.
- **Key Stakeholder Engagement:** Engagement with key stakeholders, including representatives of the priority population group to be served by the proposed development (if any), and the local councillor should be undertaken by the applicant with support from City staff. These engagements would provide an opportunity to introduce the proposed development as well as the CIHA tool and to obtain input.

3. Pre-Application Checklist Package: Similar to the current practice for ZBLA applications, a PAC checklist package would be provided to the applicant which would include preliminary comments from the CIHA core review team and commenting partners. The package would also identify requirements for the application and include a letter indicating staff's decision on whether the proposed development can proceed through the CIHA Order process.

In general, the requirements for a CIHA Order application would be consistent with those for a ZBLA or combined OPA and ZBLA application. However, the CIHA core review team would work more closely with an applicant to identify opportunities for a more streamlined and expedited process.

Application Review Stage

4. Application review: The CIHA core review team would collaborate with commenting partners across divisions to review and provide comments on the CIHA Order application. Similar to the current practice for the C2K Priority Stream, the CIHA core review team would also provide an enhanced level of service, including providing additional project management support for applicants.

A similar review timeline to the current Planning Act timelines (e.g., 90 days for a ZBLA) should be expected of CIHA Order applications with some flexibility, where required, to allow the CIHA core review team to work with the applicant to address any complex matters.

5. Draft CIHA Order Request: The CIHA core review team would be responsible for drafting the staff report, CIHA Order request, and draft by-law. The following would be submitted to the Minister:

- The Council resolution, which will identify the lands to which the requested order would apply, including a map;
- A copy of the draft by-law;
- A description of the lands to which the requested order would apply, including a map;
- A copy of the staff report which includes:
 - Identification of any conditions that must be satisfied, such as securing the community benefit or infrastructure improvements, which must be in place prior to the issuance of a building permit;
 - A description of the consultation undertaken;
 - A description of any licenses, permits, approvals, permissions, or other matters that would be required before a use that would be permitted by the order could be established;
- A certificate or attestation that the draft zoning by-law (if approved) would provide the necessary zoning relief to facilitate the proposed development;
- Any information or material as may be prescribed by regulation; and,
- Any other information or material as required by the Minister.

6. Public Meeting: While the Planning Act does not require a public meeting, staff recommend that any CIHA Orders are considered by the Planning and Housing

Committee prior to advancing to City Council. This meeting would be a public meeting where interested members of the public can provide oral and written submissions. The public should be provided with at least five days' notice in advance of a proposed CIHA Order being considered by the Planning and Housing Committee.

The notice for this public meeting should be generally consistent with the requirements for a ZBLA in terms of outreach and content. It should provide an explanation of the CIHA tool and note the decision is not appealable.

7. Council Decision: Following Planning and Housing Committee, a proposed CIHA Order would be advanced to City Council. If Council adopts the CIHA Order, it would then be forwarded by the City Clerk to the Minister for approval. The Council resolution must be provided to the Minister within 15 days of adoption by City Council.

Approval Stage

8. Approval: The Minister could refuse, approve, ask for more information, or impose conditions on the approval of a CIHA Order. Conditions could be imposed to ensure that certain studies, assessments, consultations, and other necessary due diligence associated with any proposed development would be adequately addressed before construction can begin.

If the Minister approves the CIHA order, the City Clerk would provide a copy of the CIHA Order to the owner of the land subject to the order and any other prescribed persons or public bodies and make the order available to the public within 15 days of receiving a copy of the order. The order would also be published on the City's Public Notice website.

9. Subsequent approvals: Following the Minister's approval, subsequent approvals, such as for a plan of subdivision or site plan control, should continue to be prioritized and reviewed by the identified CIHA core review team. Timelines for review of these applications would be subject to the Planning Act requirements.

If a CIHA Order request is not approved by the Minister, the proposed development would be transitioned to a ZBLA or combined OPA and ZBLA process.

If the Minister does not respond to a CIHA Order request within three months of submission, staff recommend a meeting with Ministry staff to determine whether the request will be approved or whether the proposed development should be transitioned to a ZBLA or combined OPA and ZBLA process instead.

Recommended Use of CIHAs for Initial Phase of Implementation

As part of an initial implementation phase, staff recommend that CIHA Orders should be used to advance projects as part of the following initiatives.

Rapid Housing Initiative and Modular Housing Initiative projects: Requesting CIHA Orders is appropriate for projects under the Rapid Housing Initiative (RHI) and Modular Housing Initiative (MHI). Projects under the RHI and MHI streams deliver significant

affordable and/or supportive housing, including deeply affordable units that would not be delivered by typical developments advanced by the private sector. The use of CIHA Orders would align with the established practice of requesting Minister Zoning Orders for these projects and there is a demonstrated need to advance this form of housing. MHI and RHI projects are sensitive to approval timelines based on the funding criteria for these projects. Approval delays, including any appeals against these projects, may put project funding at risk and/or make these projects unfeasible. Consequently, MHI and RHI projects should be seen as a priority for the use of CIHA Orders.

City, Agency, or Non-Profit/Co-operative-initiated projects: A CIHA Order may be appropriate for projects initiated by the City, City agency, non-profit organization, affordable co-operative housing organization, or other publicly initiated projects such as new long-term care homes, health-care facilities, community centres, supportive housing, or where projects are receiving incentives and/or investments from the City and/or other levels of government.

Housing Now Sites: Depending on the individual project, CIHA Orders may be appropriate for Housing Now projects. Housing Now delivers significant community benefits beyond what is secured through typical development applications, including affordable housing and new community spaces.

Other Priority Projects: While the initial phase of implementation should focus on the projects identified above, any privately initiated projects which meet the identified criteria for using the CIHA tool should also be considered for a CIHA Order request.

Conclusion

The CIHA tool offers an opportunity to prioritize developments which meet City objectives, including long term care homes, new affordable rental housing, and other community infrastructure projects. It also provides an opportunity to secure community benefits beyond what can be secured within the current legislative framework. Staff have proposed a framework for determining if a development proposal should be considered for approval under the CIHA tool versus traditional planning approval processes. An approval process has also been proposed for development proposals which have been deemed eligible for a CIHA Order request. It should be noted that this process is not meant to circumnavigate established practices and policies. Applications which go through the CIHA process will still undergo the same review process as a Zoning By-law Amendment application and are still expected to address staff concerns and meet City standards.

CONTACT

Kerri Voumvakis, Director, Strategic Initiatives, Policy & Analysis, City Planning Division, 416-392-8148, Kerri.Voumvakis@toronto.ca

Deanna Chorney, Manager, Policy, Strategic Initiatives, Policy & Analysis, City Planning Division, 416-392-5092, Deanna.Chorney@toronto.ca

Abbie Moscovich, Deputy Director, Planning and Administrative Tribunal Law, Legal Services, 416-392-6905, Abbie.Moscovich@toronto.ca

Johanna Hashim, Senior Planner, Strategic Initiatives, Policy & Analysis, City Planning Division, 416-396-4288, Johanna.Hashim@toronto.ca

SIGNATURE

Gregg Lintern, MCIP, RPP
Chief Planner and Executive Director
City Planning Division