

Clause 6 in Report No. 13 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on September 22, 2016.

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Inclusionary Zoning:
Staff Response to Provincial Discussion Guide

Committee of the Whole recommends adoption of the following recommendations contained in the report dated September 2, 2016 from the Commissioner of Corporate Services and Chief Planner:

1. Council endorse the staff comments submitted to the Province on the Consultation Discussion Guide for Inclusionary Zoning as set out in Attachment 1 to this report.
2. This report be circulated by the Regional Clerk to the local municipalities and the Ministry of Municipal Affairs.

Report dated September 2, 2016 from the Commissioner of Corporate Services and Chief Planner now follows:

1. Recommendations

It is recommended that:

1. Council endorse the staff comments submitted to the Province on the Consultation Discussion Guide for Inclusionary Zoning as set out in Attachment 1 to this report.
2. This report be circulated by the Regional Clerk to the local municipalities and the Ministry of Municipal Affairs.

2. Purpose

This report seeks Council endorsement of the staff level comments previously sent to the Province on the Consultation Discussion Guide for Inclusionary Zoning.

3. Background

Inclusionary Zoning allows municipalities to require affordable housing units be included in residential developments

Inclusionary zoning refers to policies, by-laws and programs that require private market development proposals with residential units to include affordable housing units and provide for those units to be maintained as affordable over a period of time. Currently, municipalities lack strong tools to require that affordable housing be incorporated into new developments. York Region advocated to the Province to permit the use of inclusionary zoning when Council adopted recommendations for the 2015 Coordinated Review of the Growth Plan for the Greater Golden Horseshoe, Greenbelt Plan and Oak Ridges Moraine Conservation Plan in [Report No. 1 of the Commissioner of Corporate Services and Chief Planner dated May 21, 2016](#). (see recommendation #22) as well as through the staff recommendations on the Long Term Affordable Housing update received by Council through [a memorandum dated September 10, 2015 from the Commissioner of Community and Health Services](#).

Although inclusionary zoning is a tool to help address affordable housing issues, particularly the unmet need between what is provided by the non-profit/government assisted market and the private market, it should not be viewed as a standalone solution. Rather, inclusionary zoning should be viewed as an additional tool to help increase the supply of affordable housing and to provide a greater mix and range of housing types resulting in potential positive impacts.

The Province has committed to legislative changes to allow for inclusionary zoning

In 2014, Ontario's Poverty Reduction Strategy - [Realizing Our Potential](#) was updated and extended to 2019. A commitment in this strategy was to update the Long Term Affordable Housing Strategy (LTAHS). In March 2016, the [LTAHS Update](#) was finalized and included a commitment by the Province to make legislative changes to allow for inclusionary zoning. In May 2016, [Bill 204: Promoting Affordable Housing Act](#) was introduced and has received First Reading. Bill 204 includes provisions that would allow municipalities to implement inclusionary zoning. Under the current legislation as proposed, adoption of inclusionary zoning by municipalities would be voluntary unless prescribed by the Minister. Very little detail on inclusionary zoning policies is provided in Bill 204. Rather, a [Discussion Guide](#) seeking input was issued by the Province with a commenting deadline of August 16, 2016.

4. Analysis and Implications

Staff initiated consultation with local municipal staff to formulate a Regional response to the Provincial Inclusionary Zoning Discussion Guide

In order to formulate a Regional response to the Inclusionary Zoning Discussion Guide, staff consulted internally as well as with staff from all nine local municipalities, and participated in a number of workshops and consultation sessions, including:

- June 15 – Provincial Inclusionary Zoning Stakeholder Meeting #1
- June 22 – York Region/Local Municipal Staff Workshop
- June 24 – Regional Planning Commissioners of Ontario Affordable Housing Group consultation with Provincial staff
- June 24 – BILD Building Affordable Housing in the GTA Roundtable
- July 5 – Provincial Inclusionary Zoning Stakeholder Meeting #2
- July 18 – Provincial Inclusionary Zoning Stakeholder Meeting #3

The consultation period for the Inclusionary Zoning Discussion Guide closed August 16, 2016

The Provincial deadline for submitting comments on the Discussion Guide was August 16, 2016. As such, staff have submitted the attached response to the Province which incorporates input received from internal and local municipal consultations.

Staff support the introduction of an inclusionary zoning framework and recommend municipal flexibility for implementation

York Region staff is supportive of the Province adding inclusionary zoning to the toolkit of approaches available to promote affordable housing.

The Discussion Guide provided fifteen questions under eleven theme areas. In general, the questions relate to whether the Province should consider taking a prescriptive approach to inclusionary zoning regulations, or give municipalities flexibility to determine their own implementation policies. In general, staff feel that municipal flexibility when developing an inclusionary zoning framework is most appropriate in a York Region context, although in some cases minimum or maximum baselines would be advantageous. In the event that future legislation is

to include prescriptive policy, staff have provided suggested approaches as outlined in Attachment 1.

Staff will report back to Council when inclusionary zoning regulations are released

Based on feedback received on the Discussion Guide, the Province is expected to issue regulations to enact inclusionary zoning. It is currently anticipated that these regulations will be made available for review early in 2017. Staff will report back to Council when the regulations are released.

Inclusionary zoning supports the housing related goals of Vision 2051, the York Region Official Plan - 2010 and the Strategic Plan

Inclusionary zoning supports the Vision 2051 goal of Appropriate Housing for All Ages and Stages and the associated actions that promote “housing choices that match our needs”. It also supports the York Region Official Plan objective “to promote an appropriate mix and range of acceptable housing to meet the needs of residents and workers” as well as the 2016 to 2019 Strategic Plan strategic objective of “increasing the range of available and affordable choices.”

5. Financial Implications

The development of the response to the Provincial Inclusionary Zoning Discussion Guide was completed within the existing Regional staff complement, and within the approved 2016 business plan and budget.

Going forward, staff will continue research and report on the potential use of inclusionary zoning and/or incentives to create complete communities with a full mix and range of housing options. This research will incorporate anticipated costs to implement a housing incentives framework.

6. Local Municipal Impact

Creating healthy, sustainable and complete communities with a full mix and range of housing options is a common goal for local municipalities and York Region. A workshop was held with staff from all nine local municipalities to develop the attached response to the Provincial Inclusionary Zoning Discussion Guide.

7. Conclusion

Inclusionary zoning allows municipalities to require residential development proponents to include affordable units. It is an additional tool to help increase the supply of affordable housing and to provide a greater mix and range of housing types that the Region and other municipalities have advocated for.

The Province has introduced legislation that would allow for the use of inclusionary zoning and requested comments on a Discussion Guide to help frame feedback. The public consultation period on inclusionary zoning closed on August 16, 2016. This report seeks Council endorsement of the attached staff response that was submitted to the Ministry of Municipal Affairs on August 16, 2016.

Staff anticipate draft inclusionary zoning regulations to be released early in 2017. When the regulations are released, staff will review and again consult with local municipal partners before reporting back to Council.

For more information on this report, please contact Paul Freeman, Director Long Range Planning at ext. 71534.

The Senior Management Group has reviewed this report.

September 2, 2016

Attachments (1)

#6970392

Accessible formats or communication supports are available upon request

August 16, 2016

Victor Doyle
Manager
Ministry of Municipal Affairs
Local Government and Planning Policy Division
Provincial Planning Policy Branch
777 Bay Street, 13th Floor,
Toronto, ON M5G 2E5

Dear Mr. Doyle:

**Re: EBR Registry Numbers 012-7616 and 012-7617
Long-Term Affordable Housing Strategy Update: Consultation Discussion Guide
for Inclusionary Zoning, May 2016: York Region response**

York Region is pleased to provide the following staff comments on the Long-Term Affordable Housing Strategy (LTAHS) Consultation Discussion Guide for Inclusionary Zoning – EBR Registry Numbers 012-7616 and 012-7617. Regional staff from a number of departments and local municipal staff have contributed to the comments consolidated below. Due to the timing of Committee and Council meetings at the Region and the EBR comment deadline, these comments cannot be considered by Council until September 2016. We will inform you of Council's actions after that date.

OVERALL COMMENTS

York Region staff is supportive of the Province adding inclusionary zoning to the toolkit of approaches available to promote affordable housing. In general, municipal flexibility when developing an inclusionary zoning framework is most appropriate in the York Region context. However, in the event that future legislation is to include prescriptive policy, we provide the suggested approaches outlined below.

In addition to responding to questions within the Discussion Guide, we offer the following input:

1. The current legislation does not fully consider the complexities of implementing inclusionary zoning in a two-tier municipality. For example, it is specified in the current legislation that a (lower tier) municipality that passes an inclusionary zoning by-law is required to establish a procedure for monitoring and ensuring that the required number of affordable housing units are maintained as affordable units for the required period of time. As a Service Manager,

York Region is better positioned to set affordable housing thresholds, administer waitlists and eligibility, and maintain affordability over time. Having this expertise, York Region and other upper- and single-tier municipalities are the appropriate bodies to administer a number of implementation and monitoring components of an inclusionary zoning initiative. Given that there may be cases where upper-tier participation would be required for lower-tier implementation, the legislation should provide for upper-tier approval of lower-tier policy amendments.

2. In the York Region context, off-site and cash-in-lieu opportunities to satisfy inclusionary zoning targets should be permitted in certain specific circumstances. The use of these approaches would allow for accommodation of affordable units in more suitable locations and would allow inclusionary zoning policies to be applied to small developments where only a portion of an affordable unit is required (e.g. a 10 unit development with a 5% unit set aside requirement could provide cash in lieu for a ½ unit). Overall, inclusionary zoning policies should strive to accommodate affordable units onsite and the use of off-site and cash-in-lieu provisions should only be considered when it has been demonstrated that on site accommodation is not reasonable. In these specific circumstances, the provision of off-site affordable units or cash-in-lieu of affordable units should be permitted by the regulation.

DISCUSSION GUIDE QUESTIONS

1. **Should there be provincial direction to further specify the target groups for inclusionary zoning, or should this be left to each municipality to determine? If you think direction is needed, who should be addressed based on the PPS definition of “affordable”?**

Program target groups should be municipally determined, through work done for Housing and Homelessness Plans. The PPS definition of affordable may be an appropriate baseline; however, municipalities should have the ability to tailor this baseline to meet local need. The Province could provide general guidelines around the establishment of the lower end baseline in order to provide clarity to both the public and private sector that inclusionary zoning is not meant to solve affordability issues at greater depths of affordability without layering on additional program funding. In York Region the range of ownership household incomes that may be served by inclusionary zoning units likely ranges from the 40th or 45th percentile to the 60th percentile of the income distribution.

In York Region, the rental threshold calculated based on the PPS definition of affordable is not a realistic threshold to be applied to new construction (\$1,189 in 2015). Regional Council has endorsed an approach whereby only units constructed since 1990 are considered when establishing the threshold (\$1,291 in 2015). Even with this adjustment, the rental threshold continues to be unrealistically low for new construction which has higher building code standards and amenity expectations. Additional adjustments that may be considered include using the higher income based calculation to set the rental threshold (\$1,453 in 2015), basing the threshold on the average rent of a condo (\$1,669 in 2015) or using greater than 100% of average market rent to set the threshold.

The ownership threshold is also problematic in that it applies to the incomes of all existing households, the majority of which reside in ground related housing (88% in year end 2010) to new housing stock which includes fewer ground related units (56% in 2015). Using the ownership income based calculation, 40% of new units in 2015 were affordable in York Region, 84% of which were 1 and 2 bedroom condominiums. A potential solution to this issue may be to apply ownership thresholds by structure type.

2. Should there be provincial direction on how price and rent would be determined in an inclusionary zoning by-law when inclusionary zoning units are sold or leased? If so, what approach would you recommend?

Price and rent (determination and maintenance of) should be municipally determined.

In cases where initial rental thresholds have been appropriately determined, use of Ontario's Rent Increase Guidelines to sustain the rents may be appropriate. In cases where the affordability period is over a long period of time, there may be a need to re-evaluate the base line threshold at regular intervals such as every 20 years.

As articulated for Question 1, ownership thresholds should be calculated using the PPS definition as a baseline, with local adjustments as required. In York Region the ownership thresholds are calculated annually and may be used as a benchmark to maintain ownership affordability over time.

3. Should minimum and/or maximum unit set asides be specified province-wide or should this be left to each municipality to determine? If you think that a specified number or percentage of units should be applied province-wide, what would you recommend?

The Province should provide minimum unit set aside targets that may be adjusted upwards by municipalities. In the event that a number of municipalities were to pursue a policy framework at the same time, the Province may facilitate discussions around unit set asides in order to strive for an even playing field. In addition to the minimum targets, the Province should establish the maximum percentage of units that could be set aside in order to provide some certainty to the development industry and public.

The ability for municipalities to embed flexibility within their unit set aside requirements should be considered. For example, higher set asides may apply in instances where off-site or cash in lieu of affordable housing contributions are made. Alternatively, unit set aside requirements may be adjusted downwards in instances where greater depths of affordability are being provided thus meeting the needs of those with more severe income constraints.

4. Should there be provincial direction for a minimum or maximum affordability period that would apply to inclusionary zoning programs province-wide, or should this be left to each municipality to determine? If you think a province-wide affordability period should be specified, what would you recommend (e.g., 20 years, 30 years, no time limitation)?

Affordability periods should be municipally determined, although the Province should set a baseline, tailored at the local level.

For rental units, affordability should be maintained in perpetuity. For ownership units, perpetual affordability should also be considered. If an affordability period is applied, 30 years would be acceptable and mechanisms such as a resetting the affordability period for each new tenant/owner and municipal or housing provider first right of refusal should be permitted. Whether or not an affordability period is applied, there should be a mechanism to remove units from an inclusionary zoning program and allow them to be placed on the open market in the event that they are no longer useful or sustainable.

5. Should there be provincial direction for a minimum and/or maximum threshold size that would apply to inclusionary zoning programs province-wide, or should this be left to each municipality to determine? If you think the threshold size should be specified province-wide, what would you recommend?

Threshold size should be municipally determined.

The approach of no or very low (2-3 unit) minimum thresholds would reduce development proponent opportunities to tailor development submissions to be below the established thresholds. If less stringent thresholds were applied, in the case of high-density developments, a 20 unit threshold may be appropriate. In the case of ground related developments an area related thresholds may make sense. The precise threshold (hectares) would be dependent on the method used (e.g. gross vs. developable area, total area of plan vs. residential area of plan, etc.). The legislation should provide clarity that thresholds are applied to the entirety of a development, regardless of how it is phased.

6. Should measures and incentives be required on a province-wide basis through regulation, or should this be left up to municipalities? If you think the province should provide direction, what would you recommend?

Measures and incentives should be municipally determined and no requirements should be embedded in legislation.

The exception to the above statement may be in the case where the Province provided assistance with offsetting the cost of inclusionary zoning. This could be done through HST rebates/waivers, land transfer tax rebates/waivers, direct subsidiaries, etc.

7. Should there be provincial direction to specify minimum requirements and standards for inclusionary zoning units or should these be left up to each municipality to determine? If you think requirements or standards should be specified province-wide, what would you recommend?

Requirements and standards should be municipally determined, although there is some potential for Provincial baselines in order to ensure that the affordable unit types, sizes, quality and locations are similar to the rest of the development.

8. Should there be provincial direction on inclusionary zoning agreements? If so, what would you recommend?

Inclusionary zoning agreement parameters should be municipally determined.

Provincial guidelines and examples would be beneficial in order to achieve greater consistency between municipalities.

Legislation should be written in such a way to allow municipalities to impose restrictions in agreements such as Section 118 under the Land Titles Act.

9. Should there be provincial direction on requirements for ongoing administration of units and ensuring affordability over the control period? If so, what types of requirements would you recommend?

10. Should there be provincial direction on mandatory requirements for municipal monitoring procedures? If so, what mandatory requirements would you recommend?

11. Should there be provincial direction on municipal reporting of inclusionary zoning units (e.g., reports must be publicly available; reports must be provided annually to municipal council)? If so, what would you recommend?

Inclusionary zoning administration, monitoring and reporting requirements should be municipally determined. However, facilitation of the development of a common set of indicators, couched outside of the legislation would be useful. Any indicators selected should not require municipalities to purchase data or incur extra costs.

To assist with local administration, monitoring and reporting requirements the Province could research and help establish opportunities for centralized partnerships (e.g. with large non-profit organizations that are interested in helping with implementation) as well as assist with the identification and purchase of software that would assist with the tracking of waitlists of eligible occupants and/or the affordability of units captured in the program over time.

12. In what circumstances would it be appropriate to require inclusionary zoning units as well as community benefits in exchange for additional height and density?

13. Should conditions or restrictions apply to these circumstances, and if so, what would you recommend?

Municipalities should have the ability to secure Section 37 community benefits in addition to inclusionary zoning requirements. This would allow for municipalities and development proponents to consider a broader range of community benefits where there is a reasonable increase in height and/or density. In certain circumstances it may be appropriate to secure additional affordable housing units beyond those provided by the private market (ie. social and special needs housing) as a community benefit in exchange for increased height and/or density.

The use of Section 37 to secure additional affordable housing units in these circumstances should be permitted by regulation where it has been demonstrated that the inclusionary zoning requirements have been met where they apply.

14. Do you think that planning applications commenced prior to enactment of the proposed legislative process should be grandfathered?

15. Do you think that planning applications commenced prior to municipal adoption of inclusionary zoning official plan policies and/or zoning by-laws should be exempted?

Development applications that have been deemed to be complete prior to local municipal adoption of inclusionary zoning official plan policies and zoning by-laws should be grandfathered and exempted from the requirements.

Sincerely,

Valerie Shuttleworth, MCIP, RPP
Chief Planner

VS/PF/sc

Attachment

Copy to: Audrey Bennett, Director, Provincial Policy Branch, Ministry of Municipal Affairs
Bruce Macgregor, Chief Administrative Officer, York Region
Dino Basso, Commissioner Corporate Services, York Region
Adelina Urbanski, Commissioner Community and Health Services, York Region
Rick Farrell, General Manager of Housing, York Region
York Region Local Municipal Planning Directors/Commissioners

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