

REPORT

LIVABLE OAKVILLE (OFFICIAL PLAN) COUNCIL SUB-COMMITTEE

MEETING DATE: JULY 25, 2016

FROM: Planning Services Department

DATE: July 18, 2016

SUBJECT: **Bill 204 - Promoting Affordable Housing Act, 2016 (Inclusionary Zoning)**

LOCATION: Town wide

WARD: Town wide

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RECOMMENDATION

That the report, entitled *Bill 204 – Promoting Affordable Housing Act, 2016 (Inclusionary Zoning)*, be received.

KEY FACTS

The following are key points for consideration with respect to this report:

- In March 2016, the Province released an update to its Long-Term Affordable Housing Strategy with a focus on increasing the supply of affordable housing.
- As part of the update, the Province introduced *Bill 204 - Promoting Affordable Housing Act, 2016* which received first reading at the Provincial legislature on May 18, 2016.
- Bill 204 proposes amendments to several provincial acts including the *Planning Act*. If passed, the Bill would introduce legislation for inclusionary zoning allowing municipalities to require private sector developers to include affordable housing units in their development proposals.
- The proposed amendments and a consultative discussion guide for potential future regulations under the *Planning Act* (O.Regs) are posted to the MMAH and EBR websites for public comment and input.
- Town staff, through the Halton Area Planning Partnership (HAPP), will provide a joint submission of comments, due to the Province prior to August 16, 2016.

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1. BACKGROUND

In 2010, the Ministry of Municipal Affairs and Housing developed Ontario's Long-Term Affordable Housing Strategy. As part of the strategy, *Bill 140 – Strong Community through Affordable Housing Act, 2011* was introduced and received Royal Assent on May 4, 2011.

Many provincial acts were amended as a result of Bill 140 including amendments to the *Planning Act* which:

- identified affordable housing as a matter of provincial interest;
- enhanced provisions for garden suites; and,
- required Official Plans and Zoning By-laws to allow secondary units (accessory apartments).

In 2016, the Province updated its Long-Term Affordable Housing Strategy to reflect new research and best practices to support an improved housing system. As part of the update, *Bill 204 – Promoting Affordable Housing Act, 2016* has been introduced. It received first reading in the Provincial Legislature on May 18, 2016.

The Bill proposes amendments to several provincial acts including the *Planning Act*. The proposed amendments to the *Planning Act* would, if passed, introduce a legislative framework to require “prescribed” municipalities to pass by-laws related to inclusionary zoning. Inclusionary zoning allows municipalities to require private sector developers to include affordable housing units in their development proposals through regulations found in a municipal zoning by-law and/or the *Planning Act*.

The Bill would also amend the *Planning Act* to put in place legislation allowing the Province to implement regulatory authority, through regulations under the *Planning Act* (O.Reg), on a number of aspects regarding inclusionary zoning by-laws.

Bill 204 (**Appendix A**) and an associated discussion guide seeking input on the amendments and potential regulations (**Appendix B**) were posted to the Ministry of Municipal Affairs and Housing website and the Environmental Bill of Rights website for public input and comments through EBR Notice No.012-7616 (Act proposal), and Notice No.012-7617 (Regulation Proposal) (**Appendix C**).

2. OVERVIEW OF PROPOSED PLANNING ACT AMENDMENTS

If Bill 204 is passed, the result of the proposed *Planning Act* amendments would:

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- Enable, or where 'prescribed' require, municipalities to establish policies in their official plans to:
 - allow inclusionary zoning requiring private sector developers to include affordable housing units in their development proposals;
 - provide goals and objectives for inclusionary zoning;
 - describe measures and procedures to attain the goals and objectives;
 - maintain the affordable units over time; and,
 - include any prescribed provisions in a Minister's regulation.
 - Enable, or where 'prescribed' require, municipalities to pass zoning by-laws to give effect to their official plan policies which contain regulations that may include:
 - the number of affordable housing units to be provided in specified developments;
 - the period of time the units are to be maintained as affordable;
 - requirements and standards that affordable housing units must meet;
 - measures and incentives that may be provided to support inclusionary zoning;
 - the price at which affordable housing units may be sold or rented;
 - a requirement for owners to enter into agreements with the municipality on matters included in the zoning by-law; and,
 - any matter specified in a Minister's prescribed regulation.
 - Limit appeal rights to the Minister when municipalities pass by-laws to adopt official plan policies and zoning by-law regulations which introduce inclusionary zoning.
 - Enable to the Minister to make regulations in relation to:
 - loading or parking facilities including minimum or zero parking requirements; and,
 - establishing maximum planning application fees for affordable units.
 - Permit municipalities to require drawings be submitted as part of site plan approval regarding exterior access design if such regulations are identified.
 - Require drafts plans of subdivision to show the shape, dimension and the relative location of affordable housing units within the plan of subdivision and allow the approval authority to assess the suitability thereto.

- Prohibit municipalities from passing section 37 by-laws (bonusing) on the same land, building or structure to which the inclusionary zoning by-law applies, except as permitted by regulation under the *Planning Act*.
- Prohibit municipalities to:
 - authorize the payment in lieu of providing affordable housing units; and,
 - authorize the provision of affordable housing units off-site.
- Allow agreements between owners and the municipalities to be registered on title and to be enforceable against subsequent owners.
- Prohibit the committee of adjustment from authorizing a minor variance from the provisions of an inclusionary zoning by-law.
- Require municipalities that pass inclusionary zoning by-laws to:
 - provide reports and information as required by regulations; and,
 - establish a monitoring procedure to ensure affordability is maintained.

3. **REVIEW AND COMMENT**

Bill 204 proposes an extensive number of amendments to the *Planning Act* to support affordable housing and implement inclusionary zoning. The Bill is a clear indication that affordable housing is a matter of Provincial interest and that the Province is taking major steps to provide direction for municipalities to address it.

Bill 204 received first reading and discussions on the proposed Bill are ongoing. Given this, the legislation to date has presented staff with more questions than answers and it is unknown at this time exactly what impacts inclusionary zoning legislation will have on the Town and Halton Region.

For example, the consultative discussion guide (**Appendix B**) seeks input on a number of key themes related to the proposed legislation. The main point of discussion is: What regulations are necessary and appropriate to implement an inclusionary zoning program? And, who should be responsible for creating the regulations - the Province, individual municipalities, or a combination of both?

The discussion guide attempts to shape responses to these broad questions. There are twelve key themes where the Province is seeking input:

1. An inclusionary zoning framework for Ontario;

2. Program Targets;
3. Price and Rent;
4. Unit Set-Asides;
5. Affordability Periods;
6. Threshold Size;
7. Measures and Incentives;
8. Requirements and Standards;
9. Agreements;
10. Administration, Monitoring and Reporting;
11. Use of Section 37 (bonusing); and,
12. Transitional Matters.

As a step to address the broad questions and proposed amendments, staff attended a workshop hosted by the Halton Area Planning Partnership (HAPP), comprised of Halton Region staff and staff from each of its lower-tier municipalities, on June 8, 2016. HAPP intends to provide a joint submission of comments to the Province. At the time of writing this report, comments were being finalized.

Some of the key concerns and questions resulting from the review include:

- Which municipalities will be “prescribed” and required to implement official plan policies and zoning regulations to implement inclusionary zoning? Should Halton Region be a prescribed municipality, which it is speculated to be given the affordability concerns within the GTA, what will be the impacts on future development when compared with other jurisdictions? Especially in the absence of knowing any draft regulation.
- What are the logistics of administering inclusionary zoning in the context of upper and lower-tier municipalities where upper-tier municipalities are the housing service provider, and the lower-tier municipalities are responsible for implementing the zoning by-law and do not have housing departments. While putting inclusionary zoning within a zoning by-law is possible, what are the operational aspects post-provision?
- How would the transition of the “affordability period” be administered from when a residential unit is held and sold as “affordable” (within the affordability period) to when it no longer has to be sold as “affordable” (outside of the affordability period)?
- What are the operational aspects of controlling the sale price of an affordable housing unit during the private sale of private property through utilizing zoning by-laws and land title tools?

- Given the differences between municipalities across the province, there is a general concern that prescribing provincial targets or regulations will not be responsive to local contexts and circumstance. A more appropriate approach may be that the Province provide a baseline requirement or guidelines while allowing municipalities to respond to individual community housing needs as identified through individual Comprehensive Housing Strategies or Housing and Homelessness Plans.
- Staff are concerned that not permitting the use of Section 37 (bonusing) where inclusionary zoning is also required would undermine other goals and objectives of the official plan. It is suggested that Section 37 and inclusionary zoning should not be mutually exclusive.

4. CONCLUSION AND NEXT STEPS

Staff are supportive of the steps taken to address housing affordability through inclusionary zoning as a *Planning Act* tool. However, staff note that inclusionary zoning is one of several tools that should be considered and that are necessary to address affordable housing issues long-term. Specifically, staff note that inclusionary zoning will likely not address or accommodate individuals at the low end of the income spectrum.

Before Bill 204 is enacted, a number of steps are still required through the provincial process including receiving: Second Reading, Third Reading, and Royal Assent in the Provincial Legislature. As well, when Bills of a complex nature are brought forward in the House of Commons they are sometimes sent to various committees to further assess, review, and provide additional public commenting opportunities before the Bill receives Third Reading. It is unknown what the anticipated process or timeframe is for Bill 204.

CONSIDERATIONS:

(A) PUBLIC

The Province is seeking public input and comments on the proposed Bill 204 amendments and associated discussion guide prior to August 16, 2016. Town Council and the general public are encouraged to provide input.

(B) FINANCIAL

There are potential financial implications to the town if Bill 204 – Promoting Affordable Housing Act, 2016 is passed as currently written.

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(C) IMPACT ON OTHER DEPARTMENTS & USERS

Coordination with other departments is ongoing and will be further considered as Bill 204 proceeds through the House of Commons.

(D) CORPORATE AND/OR DEPARTMENT STRATEGIC GOALS

This report addresses the corporate strategic goal to:

- be accountable in everything we do
- be honest in everything we do
- be the most livable town in Canada

(E) COMMUNITY SUSTAINABILITY

The proposed amendments to the *Planning Act* through Bill 204 – Promoting Affordable Housing Act, 2016, work to enhance the social, economic and environmental aspects of the community.

APPENDICES:

APPENDIX A – Bill 204 – Promoting Affordable Housing Act, 2016 (First Reading)

APPENDIX B – Inclusionary Zoning Consultative Discussion Guide

APPENDIX C – EBR Notice No. 012-7616 (Act Proposal), and Notice No.012-7617 (Regulation Proposal)

Prepared by:
Brad Sunderland, MCIP, RPP
Planner, Policy Planning

Recommended by:
Diane Childs, MCIP, RPP
Manager, Policy Planning

Submitted by:
Mark H. Simeoni, MCIP, RPP
Director, Planning Services