

Report to Planning and Environment Committee

To: Chair and Members
Planning & Environment Committee
From: Gregg Barrett
Director, City Planning and City Planner
Subject: Affordable Housing Development Toolkit: Update Report
Meeting on: July 13, 2020

Recommendation

That, on the recommendation of the Director, City Planning and City Planner, this report **BE RECEIVED** for information.

Executive Summary

- The last report to Council regarding the Affordable Housing Development Toolkit was in June 2019. That report identified a range of existing and proposed Planning tools to support, encourage, and require the development of new affordable housing units.
- The focus of the Toolkit is the land use policies and programs that can be implemented to support the development of affordable housing units.
- Since that time, Staff have conducted public consultation regarding the tools of the Affordable Housing Development Toolkit. This consultation was done in conjunction with the consultations for the Affordable Housing Community Improvement Plan (one of the tools of the Toolkit). The City has also continued to implement new tools. The Affordable Housing Toolkit identifies various actions, programs and regulations that can be used as a means of implementing broader strategies for affordable housing, including the affordable housing policies of the London Plan and the Housing Stability Action Plan.
- The toolkit identifies a number of existing City practices as well as new initiatives requiring changes to City policies, regulations, or practices. The new initiatives would be added to the work program and require their own public consultation and reports to Council.
- Since June 2019 there have also been significant changes that have had an impact on the City and the range of available planning tools. Changes to Provincial legislation have had significant impacts on the tools identified in the previous report to Council.
- This report identifies the recommended tools of the Affordable Housing Development Toolkit. The tools have been updated as a result of both changes to provincial legislation and through consultation with the development industry and public. The recommended tools list also includes new tools that have emerged since the previous report to Council.
- The Toolkit is intended as a “living document” and the tools identified will be updated as legislation changes or as other opportunities become available to support the development of affordable housing. This will be done in coordination with other housing-related actions of the City. Reporting such changes will be brought forward to this Committee and may also be identified through quarterly reports to the Community and Protective Services Committee regarding implementation of the City’s Housing Stability Action Plan.

1.0 Timeline of Events since June 2019 Toolkit Report

1.1 City Actions Related to Housing

The City has undertaken a number of actions since the last report to Council regarding the Affordable Housing Development Toolkit. These actions have included a review of the organization and administration of housing services, an update to the City's Homeless Prevention and Housing Plan (now called the "Housing Stability Action Plan"), ongoing coordination of initiatives by an inter-departmental and agency team, and completion of one of the priority "tools" of the Affordable Housing Development Toolkit (the Affordable Housing Community Improvement Plan).

1.1.1 Housing Services Review and Housing Stability Action Plan

In September 2019, Council received and approved the Housing Services Review. This review resulted in actions intended to increase the efficiency and effectiveness of service delivery of housing related services. This included changes to the reporting structure (Board of Directors) of the Housing Development Corporation (HDC) and London Middlesex Community Housing (LMCH).

During this same time period, City Housing and Homeless Prevention Staff prepared the City's statutory five-year update to the Homelessness Prevention and Housing Plan. Public and stakeholder consultations were held in spring and summer last year, which resulted in the 2019-2024 "Housing Stability Action Plan". The Housing Stability Action Plan (HSAP) was approved by City Council in December 2019. It was then submitted to the Province, per requirements of the *Housing Services Act*, and to the Federal Government to ensure alignment with the National Housing Strategy. The Housing Stability Action Plan was approved by the Minister of Municipal Affairs and Housing in March 2020. Since completion, updates have been provided to Council through the Community and Protective Services Committee. Quarterly reports include inter-departmental and agency support, and include updates on initiatives which implement the HSAP, including planning and land use tools of the Affordable Housing Development Toolkit.

In order to coordinate municipal efforts across the range of housing and homelessness, an inter-departmental and agency staff team has been created. This group meets regularly to coordinate various projects that implement the frameworks of the HSAP and affordable housing policies of the London Plan. This Staff group has also recently been identified to help facilitate the LMCH's Regeneration initiatives.

1.1.2 Affordable Housing Development Toolkit and Community Improvement Plan (CIP)

The Affordable Housing Development Toolkit is a series of planning tools intended to implement the HSAP and affordable housing policies of the London Plan. In fall 2019, a number of public consultation sessions were held regarding the Toolkit and the Affordable Housing Community Improvement Plan (CIP). The public and industry stakeholders were asked to review and comment on the new planning tools proposed. They were asked to identify if any planning tools were missing and what the City should consider when identifying new tools to be introduced (policies, regulations, or City practices). The stakeholders were also asked to provide feedback on the draft CIP and potential incentive programs under the CIP to encourage development of new affordable housing units.

Following the consultations, the Affordable Housing CIP was approved by Council in January 2020. The CIP includes the identification of a Community Improvement Project Area where the improvement is needed, identification of community objectives for the Plan, identification of Monitoring criteria for future reviews of the CIP and the incentive programs to ensure the objectives are being achieved, and the preparation of program guidelines and eligibility criteria for incentive programs introduced within the Affordable Housing Community Improvement Project Area.

The introduction of the Affordable Housing CIP was coordinated with the multi-year budget process. Once the CIP and incentive programs were approved, business cases were prepared to allocate budget to the new incentive programs. The preparation of all the multi-year budget business cases for housing-related initiatives and capital projects was coordinated by the staff housing team.

1.2 Provincial Changes to Planning and Related Legislation

As identified in the June 2019 Affordable Housing Toolkit Report, the *More Homes, More Choice Act, 2019* (Bill 108) made significant changes to the *Planning Act*, *Development Charges Act*, and various other planning-related legislation.

Some of the major changes proposed in the *More Homes, More Choice Act, 2019* included:

- Changes to the *Planning Act*.
 - Deletion of the current section 37 and the process of “Bonus Zoning”, whereby a municipality can increase the density and height on a site beyond what is otherwise permitted by the Zoning By-law in exchange for the applicant providing public benefits such as affordable housing units, public art, child care facilities, or others that are commensurate to the “bonus”.
 - Replacing the “Bonus Zoning” framework with a new section 37 that introduces a “Community Benefits Charge” (CBC). The CBC is intended to replace the bonusing framework and also replace some of the Municipal charges that were previously eligible under Development Charges (or DCs). Through these Bill 108 changes, some “soft services” of a Development Charge may now to be collected through a CBC. The CBC will be a fund that the municipality can use to develop some of the community land uses and public benefits that were previously part of a Bonus Zoning agreement. The CBC is based on a percentage of the value of the land where the development application is occurring, not based on the number of new units proposed. At the time of writing this report, the regulations that support the implementation of a CBC have not been enacted. City staff continue to monitor that provincial process and will determine what actions are required once information is available.
 - The geographic scope of where Inclusionary Zoning may be considered has also been reduced through Bill 108. Previously Inclusionary Zoning was permitted municipality-wide, whereas now is only permitted within identified “Protected Major Transit Station Areas” and where a community planning permit system is in place. Inclusionary Zoning would include the policies and by-laws that require 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. Inclusionary Zoning is a regulatory tool that can be used to require the private market to provide affordable housing units.
 - Secondary Dwelling Unit permissions have also increased. Previously one secondary dwelling unit was permitted in either the main residential unit or in an ancillary building (such as a garage). Under Bill 108 a second unit is permitted within the main building and a unit is permitted in an ancillary building. The term has also changed to “Additional Residential Units”. Staff are currently undertaking a city-wide policy and zoning review to implement this change.
- *Development Charges Act*.
 - Development Charges are one-time charges to recover growth-related capital costs of new development. Development Charges previously

included a number of “hard services” and “soft services”. These services included such things as roads and servicing infrastructure, libraries, community facilities, parks, fire stations.

- Through Bill 108, soft services were moved to the new Community Benefit Charge, and the Province now prescribes the list of hard services which are eligible for a DC. The list of services was previously at the discretion of the City, except for certain prohibited services.
- Bill 108 also requires the payment of DCs in installments for certain classes of buildings. Non-profit housing developments and purpose-built rental housing developments are eligible for the “deferral”, which spreads the DC payment out over 21 years. First payment of Development Charges for these classes of buildings has also moved to begin at the time of building occupancy, rather than the time of building permit issuance.

These legislation changes have been addressed in detail in other reports to Council. However, these changes are important for the Affordable Housing Toolkit. Certain new tools that were expected to be implemented by the City were tools based on Planning legislation and regulations that has now changed through Bill 108.

There is also some uncertainty regarding the legislation changes proposed through Bill 108. For example, in proposed Regulations released by the Province through the Environmental Registry of Ontario (ERO) at the end of February 2020, certain “soft” services which had been identified to move from the DC to the new CBC framework are now proposed to go back to the DC by-law. Such soft services include libraries, parks development, and community centres. There may be additional changes as well based on the feedback the Province received.

There is also uncertainty regarding the timing of transition to the new legislation. Previously, Bill 108 identified that municipalities were required to introduce the CBC by-law and related updates by January 1, 2021. Through the February 2020 proposed regulations, municipalities are now required to transition to the new CBC regime one (1) year after the Province’s Ontario Regulations for the CBCs comes into force.

Since the proposed regulations were released, the Province enacted the *Emergency Management and Civil Protection Act* and a State of Emergency in response to the COVID-19 pandemic. The State of Emergency includes limiting the number of “essential workplaces” to remain open and suspension of a number of statutory timelines.

At the time of writing of this report the State of Emergency is still in effect. The COVID-19 pandemic and the timing for “recovery” from the State of Emergency are unknown. This means that the timing for transition to a new Community Benefits Charge regime is still very uncertain.

2.0 Update to the Affordable Housing Tools

The tools of the Affordable Housing Development Toolkit include City practices, policies, incentives, and regulations. Many of the new tools to be introduced rely upon the *Planning Act*, *Development Charges Act*, or other provincial legislation.

The toolkit is also intended to be a “living document” that can adapt to changes in legislation and respond to community feedback and changing community needs for the provision of affordable housing. The following is an update on the tools of the toolkit since the June 2019 report, separated into three sections: (1) tools which have changed significantly; (2) those which will continue without significant changes; and (3) emerging tools since the June 2019 report.

2.1 Tools Affected by Legislative Changes

2.1.1 Use Section 37 “Bonus Zoning” to Stimulate the Development of Affordable Housing

- Council may authorize a Zoning By-law that increases height and density of development beyond what is otherwise permitted, if the increase is commensurate with the public benefit provided in return by the developer.
- “Bonus Zoning” has been deleted as a tool from the *Planning Act* and replaced with a new Community Benefits Charge for the City to provide community land uses and public benefits.
- The February 2020 draft regulations identify that the City will have one year from the date that the Ontario Regulations for Bill 108 come into force to amend its Official Plan policies. Therefore, subject to the final Ontario Regulations for Bill 108, section 37 Bonus Zoning is still a tool to encourage the creation of affordable housing units, but it is a tool that will soon be phased out.

2.1.2 Use Inclusionary Zoning to Require Affordable Housing Development

- Inclusionary Zoning is a zoning regulation that would require private development proposals with residential units to include affordable units as part of those proposals, and require those units to be maintained as affordable over a period of time.
- Inclusionary Zoning regulations may include such matters as: the percentage of units “set aside” as affordable, the length of tenure as affordable, definitions of affordability, geographic locations of units, and target demographics and prices/rents at which units are to be set during the “affordability period”.
- Under Bill 108, Inclusionary Zoning is now only permitted in areas where a Protected Major Transit Station Area (PMTSA) has been delineated and approved by Council and/or where a Community Planning Permit System is in effect.
- The City has published a Notice of Application to consider possible amendments to the London Plan to designate PMTSAs and add policies to the London Plan pertaining to building heights and minimum densities for these areas. Notice was published in *The Londoner* on May 28, 2020.
- PMTSAs are the areas surrounding and including a rapid transit station or stop, generally within a 500 to 800 metre radius (a 10-minute walk) of such transit stations. PMTSAs are planned to accommodate increased residential and employment density through highly urban, mixed-use, transit-supportive forms of development. PMTSAs will support the future implementation of rapid transit services consistent with policies of *The London Plan*.
- Inclusionary Zoning policies may only be considered following the City-wide review of PMTSAs. This review is identified in Council’s Strategic Plan for completion by late 2021 and is currently on track.
- Inclusionary Zoning may also be considered through the ReThink Zoning project as a component of a Community Planning Permit System

2.1.3 Consider Affordable Housing through DC By-law 2023 and through new Community Benefits Charge

- Recent draft regulations for Bill 108 have made changes to the services eligible for Development Charges and services for the Community Benefits Charge.
- Staff will continue to monitor the changes to Provincial policy and Ontario Regulations, and the toolkit will be updated to reflect the potential opportunity for affordable housing, if available.

2.2 Tools to Continue without Significant Changes

2.2.1 ReThink Zoning

- The Zoning By-law is the tool to implement the policies of a city's official plan. Now that the majority of the policies of *The London Plan* are in effect, the City is undertaking a comprehensive review and update of the Zoning By-law.
- The new Zoning By-law will implement the policy framework of *The London Plan*, including its policy directions regarding affordable housing and homelessness.
- As part of the preparation of the new Zoning By-law, the City will evaluate the potential for various zoning system options, including the Community Planning Permit System (CPPS), which is an alternative approval system that integrates Zoning with Site Plan and Minor Variance approvals, as a means of promoting the development of affordable housing.
- The ReThink Zoning review will still consider opportunities to encourage a range of housing forms and affordable housing opportunities. As noted above, Inclusionary Zoning, which requires affordable units, may be considered for city-wide application only if a CPPS system is the approved zoning system.

2.2.2 Official Plan and Zoning By-law Amendments for Intensification on Housing Regeneration Sites

- There may be sites throughout the city which present the opportunity for intensification or regeneration. Such regeneration sites may include properties such as former school sites, surplus Provincial properties, or properties of London Middlesex Community Housing.
- A City-initiated review and amendments to *The London Plan* (official plan) and Zoning By-law may be undertaken to recognize the infill and urban regeneration potential of such sites across the city as well as identifying tenant-supportive uses that may be provided as part of the redevelopment of these sites.
- There is no change to this tool resulting from recent legislation changes or feedback received through the toolkit engagement meetings. The City will be working with agencies such as the LMCH on this initiative. For LMCH sites there may also be separate reporting to Council through their Board.

2.2.3 Secondary Plans for Transit Villages

- In the previous report it was identified that affordable housing opportunities may be considered in the policies of secondary plans for London Plan's Transit Villages. Transit Villages are a Place

Type identified for high density, mixed use, urban neighbourhoods and significant infill and regeneration opportunity.

- There is no change to this tool resulting from recent legislation changes or feedback received through the toolkit engagement meetings. Staff will continue to consider affordable housing opportunities in the preparation of secondary plans and the development of these Transit Village areas.

2.2.4 Existing and Ongoing Tools and Activities

- In addition to the new tools to be implemented through upcoming work plan activities, a number of existing and on-going City policies and practices are important tools of the affordable housing toolkit. The following tools and activities continue:
 - Implementation of the Closed School Strategy: evaluation for acquisition of closed school sites for municipal purposes, including affordable housing, community facilities and park land;
 - Promotion of Additional Residential Units (formerly called “Secondary Dwelling Units”): incentive program under the Affordable Housing CIP as well as promotion materials. The City is undertaking a review regarding the Bill 108 change and will initiate an Official Plan and Zoning By-law amendment to implement these changes. Affordable Housing Community Improvement Plan (completed) and other City CIPs with potential to encourage residential development and affordable housing;
 - Consideration of affordable housing in City-owned land sales;
 - Monitoring the supply of permit-ready land and lot supply (e.g. for new greenfield growth areas).

2.3 Emerging Planning Tools

2.3.1 Affordable Housing Replacement Policy

- Through the public and stakeholder engagement, it was identified that the City could consider additional tools to support the development of affordable housing units. One concern identified during the consultations was the potential loss of affordable units during a redevelopment project that requires the demolition of existing residential units in order to redevelop the site. For example, if there is a land assembly that includes affordable units demolished in order to redevelop a new, higher intensity building, such as a high-rise development.
- This replacement policy was identified as achieving similar objectives to a rental-to-condominium conversion policy but unlike a conversion policy would not rely on vacancy rate. Additionally, a conversion policy was previously identified in part because of tax advantages of the condominium form of building ownership versus multi-residential rental building ownership. To address this matter, the tax rate for multi-residential has been lowered by the City.
- In order to address this potential loss of affordable housing units, an Affordable Housing Replacement Policy may be added to the toolkit.

- Such a tool would mean that a new development would be required to replace the demolished affordable units within the new development.
- This Replacement policy would be developed through a public consultation process, such as an Official Plan Amendment process. As part of the consultation, feedback could be gathered on factors such as geographic area, threshold size and scale of applicable developments, the replacement rate, and implementation factors such as a time limit to replace the demolished units, legal and development agreements, and other development and affordability factors related to the demolished units and the replacement units.

2.3.2 Tiny Houses

- Since June 2019 there has been much public discussion about “tiny houses”. The Province of Ontario has also released a guideline document under Bill 108 titled “Build or Buy a Tiny Home”.
- Staff have identified several potential categories of “Tiny House” use. First, the tiny house could be considered a variation on the “ancillary building” used for an “Additional Residential Unit” (formerly Secondary Dwelling Unit). Second, a number of tiny houses could be constructed on one site. This could be a variation on a mobile home park. The third potential use of tiny houses could be as a temporary or emergency shelter use as part of homelessness prevention.
- Each category of tiny house will require separate reviews of Official Plan policy approach, Zoning By-law regulations and definitions, and building code considerations. For example, definitions of mobile homes and additional residential units will require consideration, as well as water and sewerage servicing requirements (as an ancillary building), and the number of buildings per property.
- For use of tiny houses as an emergency shelter or temporary shelter land use, there may be additional considerations such as resident safety, inter-governmental funding and programming requirements, and other considerations. These forms of housing would be coordinated with the Housing and Homeless Prevention division.
- Including tiny houses as a tool within the Toolkit supports implementing of the Housing Stability Action Plan, the affordable housing policies of the London Plan, and may provide potential for an alternative form of housing within the city.

3.0 Summary of Tools of the Toolkit

The following table provides a summary of the Affordable Housing Development Toolkit, including the tool, objectives, and current status.

Strategy (Tool)	Objectives	Status
Closed Schools Strategy (and on-going site evaluations)	<ul style="list-style-type: none"> - Create affordable housing units (and potential parkland and neighbourhood facilities). - Create catalyst for neighbourhood regeneration and infill. 	<ul style="list-style-type: none"> - Ongoing, as site opportunities become available.
Secondary Dwelling Units	<ul style="list-style-type: none"> - Create affordable rental units and assist with ownership affordability. - Create catalyst for neighbourhood regeneration and small-scale intensification. 	<ul style="list-style-type: none"> - Affordable Housing CIP completed January 2020. - City-wide policy and zoning review to align with Bill 108 changes is underway.
Existing CIPs with Residential Component	<ul style="list-style-type: none"> - Create housing units in Downtown, business main streets and central area neighbourhoods. 	<ul style="list-style-type: none"> - Affordable Housing CIP completed January 2020.
City-owned Land Sales (Procurements)	<ul style="list-style-type: none"> - Create catalyst for neighbourhood regeneration and intensification. - Foster mixed, complete communities. - Provide opportunities to create units within established neighbourhoods. 	<ul style="list-style-type: none"> - Ongoing. - Second phase of Old Victoria Hospital Lands RFP is being prepared by Staff.
ReThink Zoning	<ul style="list-style-type: none"> - Implement policy framework of The London Plan. - Provide opportunities for “Inward and upward” growth. - Provide urban regeneration and affordable housing opportunities. 	<ul style="list-style-type: none"> - Phase 1 of ReThink Zoning is underway. Terms of Reference complete and consultant retained.
Community Improvement Plan for Affordable Housing	<ul style="list-style-type: none"> - Offer tools and incentive programs to encourage the development of affordable housing units (e.g. different tenures, forms of development, and levels of affordability). 	<ul style="list-style-type: none"> - Completed January 2020.
Secondary Plans	<ul style="list-style-type: none"> - Provide opportunity to create affordable housing units. - Create catalyst for urban regeneration. - Provide opportunities for transit-oriented development. - Create mixed-use, complete communities. 	<ul style="list-style-type: none"> - Masonville Secondary Plan is underway.
Inclusionary Zoning	<ul style="list-style-type: none"> - Create mixed-income communities with a portion of housing required (“set aside”) as affordable units. 	<ul style="list-style-type: none"> - Targeted for 2021 in Council’s Strategic Plan. - IZ policies to be considered following city-wide review of Protected Major Transit Station Areas (PMTSAs)
Tiny Houses	<ul style="list-style-type: none"> - Policy and Zoning Reviews to accommodate “tiny houses” as potential alternative form of affordable housing. 	<ul style="list-style-type: none"> - A new tool. Will be upcoming and added to work plan.

Strategy (Tool)	Objectives	Status
Affordable Housing Replacement Policy	<ul style="list-style-type: none"> - Preserve affordable housing stock when redevelopment projects require demolition of existing affordable housing units. 	<ul style="list-style-type: none"> - A new tool. Will be upcoming and added to work plan.
Official Plan and Zoning Amendments on Housing Regeneration Sites	<ul style="list-style-type: none"> - Create opportunities for affordable housing and market housing units. - Provide for neighbourhood regeneration, infill and intensification on sites presenting unique opportunity. - Address the needs of private market developers and agency partners (e.g. London Middlesex Community Housing). 	<ul style="list-style-type: none"> - Upcoming. Will be coordinated with LMCH Regeneration plans.
Community Benefits Charge	<ul style="list-style-type: none"> - Collect a “Community Benefits Charge” and review potential for this charge to fund affordable housing development. - Note: subject to Province enacting this Charge through Bill 108, the “<i>More Homes, More Choice Act, 2019</i>”. 	<ul style="list-style-type: none"> - Staff to monitor changes to Provincial legislation and regulations, and will report back to Council. This will be part of a broader review of the potential benefits and issues with Community Benefits Charges.

4.0 Conclusion

Changes to Planning legislation through the *More Homes, More Choice Act, 2019* have had an impact on the ability of the City to pursue tools that were previously identified as part of a planning toolkit to encourage and require the development of new affordable housing units. The last report to Council on the Affordable Housing Development Toolkit was in June 2019.

The COVID-19 pandemic has also had widespread implications on planning and affordable housing. The pandemic has impacted the timing the City’s transition to new planning legislation and regulations. The pandemic has also resulted in significant economic impacts across the city. While the toolkit update is not directly a response to the COVID-19 pandemic, the need for affordable housing supports is expected to be exacerbated by the economic impact of job losses and reduced employment resulting from COVID-19. A separate report will be brought to Council considering timing and processes for affordable housing development as part of the City’s response to COVID-19 recovery.

The Affordable Housing Development Toolkit is intended as a ‘living document’ that can respond to changes in community needs, planning legislation and City policies and practices. Staff will continue to review planning legislation and regulations, and the toolkit will be updated to reflect changes accordingly.

Next steps include implementation of the new tools as well as investigation of opportunities for a more coordinated public interface, such as webpages, to encourage and promote incentives, programs, and policies related to affordable housing, including those tools available through the Affordable Housing Development Toolkit.

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<p>Note: The opinions contained herein are offered by a person or persons qualified to provide expert opinion. Further detail with respect to qualifications can be obtained from Planning Services</p>	

July 2, 2020
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Appendix A - Previous Reports

- July 22, 2019 “Information Report – Proposed Regulations for Bill 108 – More Homes, More Choice Act, 2019”, Planning and Environment Committee.
- June 17, 2019 “Affordable Housing Development: Planning Toolkit Update”, Planning and Environment Committee.
- May 27, 2019 “Bill 108 – More Homes, More Choice Act, 2019”, Planning and Environment Committee.
- March 18, 2019 “Update on Response to Provincial Consultation on ‘Increasing Housing Supply in Ontario’”, Planning and Environment Committee.
- January 7, 2019 “Provincial Consultation on ‘Increasing Housing Supply in Ontario’”, Planning and Environment Committee.
- October 29, 2018 “Affordable Housing – Planning Tools to Support the Development of Affordable Housing”, File 18 AFF, Planning and Environment Committee.