City of Hamilton

PLANNING COMMITTEE ADDENDUM

Meeting #: 18-003
Date: February 20, 2018
Time: 9:30 a.m.
Location: Council Chambers, Hamilton City Hall
71 Main Street West

Ida Bedioui, Legislative Coordinator (905) 546-2424 ext. 4605

Pages

4. DELEGATION REQUESTS

*4.1 Marion Emo, Hamilton/Burlington SPCA respecting animal adoptions for the City of Hamilton, Item 8.2 (For today's meeting.) *2*

6. PUBLIC HEARINGS / DELEGATIONS

6.2 Applications to Amend the City of Stoney Creek Zoning By-law No. 3692-92, the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 2 Glover Mountain Road, Stoney Creek (Ward 9) (PED18018)

*6.2.a Appendix B Replaced *3*

8. DISCUSSION ITEMS

*8.3 Response to the Ministry of Municipal Affairs and the Ministry of Housing Consultation on the Regulatory Content of Bill 7 (Inclusionary Zoning((PED18063) (City Wide) *7*

4.1

Form: Request to Speak to Committee of Council
Submitted on Thursday, February 15, 2018 - 9:01 am

==Committee Requested==
Committee: Planning Committee

==Requestor Information==
Name of Individual: Marion Emo

Name of Organization: Hamilton/Burlington SPCA

Contact Number: 905-574-7722 ext 310

Email Address: memo@hbspca.com

Mailing Address:
245 Dartnall Road
Hamilton, ON L8W 3V9

Reason(s) for delegation request: Respond to Report in front of Committee: Animal Adoptions for the City of Hamilton

Will you be requesting funds from the City? No

Will you be submitting a formal presentation? Yes

Authority: Item ,
Report (PED18018)
CM:
Ward: 11

Bill No.

CITY OF HAMILTON

BY-LAW NO. _____

**To Amend Zoning By-law 3692-92 (Stoney Creek)
Respecting lands located at 2 Glover Mountain Road
(Stoney Creek)**

WHEREAS the *City of Hamilton Act 1999*, Statutes of Ontario, 1999 Chap.14, Sch. C. did incorporate, as of January 1st, 2001, the municipality “City of Hamilton”;

WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former area municipality known as "The Corporation of the City of Stoney Creek" and is the successor to the former Regional Municipality, namely, The Regional Municipality of Hamilton-Wentworth;

WHEREAS the *City of Hamilton Act, 1999* provides that the Zoning By-laws of the former area municipalities continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

WHEREAS Zoning By-law No. 3692-92 (Stoney Creek) was enacted on the 8th day of December, 1992, and approved by the Ontario Municipal Board on the 31st day of May, 1994;

WHEREAS the Council of the City of Hamilton, in adopting Item of Report PED 18018 of the Planning Committee, at its meeting held on the 20th day of February, 2018, recommended that Zoning By-law No. 3692-92 (Stoney Creek) be amended as hereinafter provided; and

WHEREAS this By-law is in conformity with the Urban Hamilton Official Plan.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Map No. 11 of Schedule “A”, appended to and forming part of By-law No. 3692-92 (Stoney Creek), is amended as follows:

   (a) by changing the zoning from the from Neighbourhood Development “ND” Zone to Single Residential “R4-34(H1, H2)” Zone, Modified (Blocks 1 – 4);

2. That Subsection 6.5.7, "Special Exemptions" of Section 6.5 Single Residential “R4” Zone, of Zoning By-law No. 3692-92, be amended by adding a new Special Exemption, “R4-34(H1, H2)”, as follows:

“R4-34(H1, H2)” 2 Glover Mountain Road, Schedule “A”, Map No. 1352

Notwithstanding the provisions of Paragraphs (a), (b), (c), (d), (e), (f), and (g) of Section 6.5.3 “Zone Regulations” of the Single Residential “R4” Zone and Section 4.19 “Yard Encroachments”, the regulations of the Single Residential “R4-31” Zone, Modified, as established under By-law No. 14-180, shall apply on those lands zoned “R4-34” by this By-law, and the following shall also apply:

(a) Maximum Building Height	10.3 metres (2 storeys) and the elevation of the peak of the roof shall be a maximum of 196.5 masl.

Notwithstanding the provision of Section 3.8 “Holding Zones”, on those lands zoned “R4-34 (H1, H2)” by this By-law, the Holding symbol (H1) may be removed and thereby give effect to the “R4-34” Zone provisions in Section 2 above, upon completion of the following:

(a) That a visual analysis is finalized including determination of the maximum building height as a Metre Above Sea Level (MASL) to the satisfaction of the Director of Planning and Chief Planner and the Niagara Escarpment Commission.

Notwithstanding the provision of Section 3.8 “Holding Zones”, on those lands zoned “R4-34 (H1, H2)” by this By-law, the Holding symbol (H2) may be removed and thereby give effect to the “R4-34” Zone provisions in Section 2 above, upon completion of the following:

(a) That the Niagara Escarpment Commission (NEC) issue development permits for the creation of the lots, the road and the outlet / spillway and all conditions of the development permits are cleared to the satisfaction of Manager of Engineering Approvals, Growth Management Division.

That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the *Planning Act.*

To Amend Zoning By-law 3692 (Stoney Creek)
Respecting lands located at 2 Glover Mountain Road
(Stoney Creek)

PASSED and ENACTED this _____ day of ____ , 2018

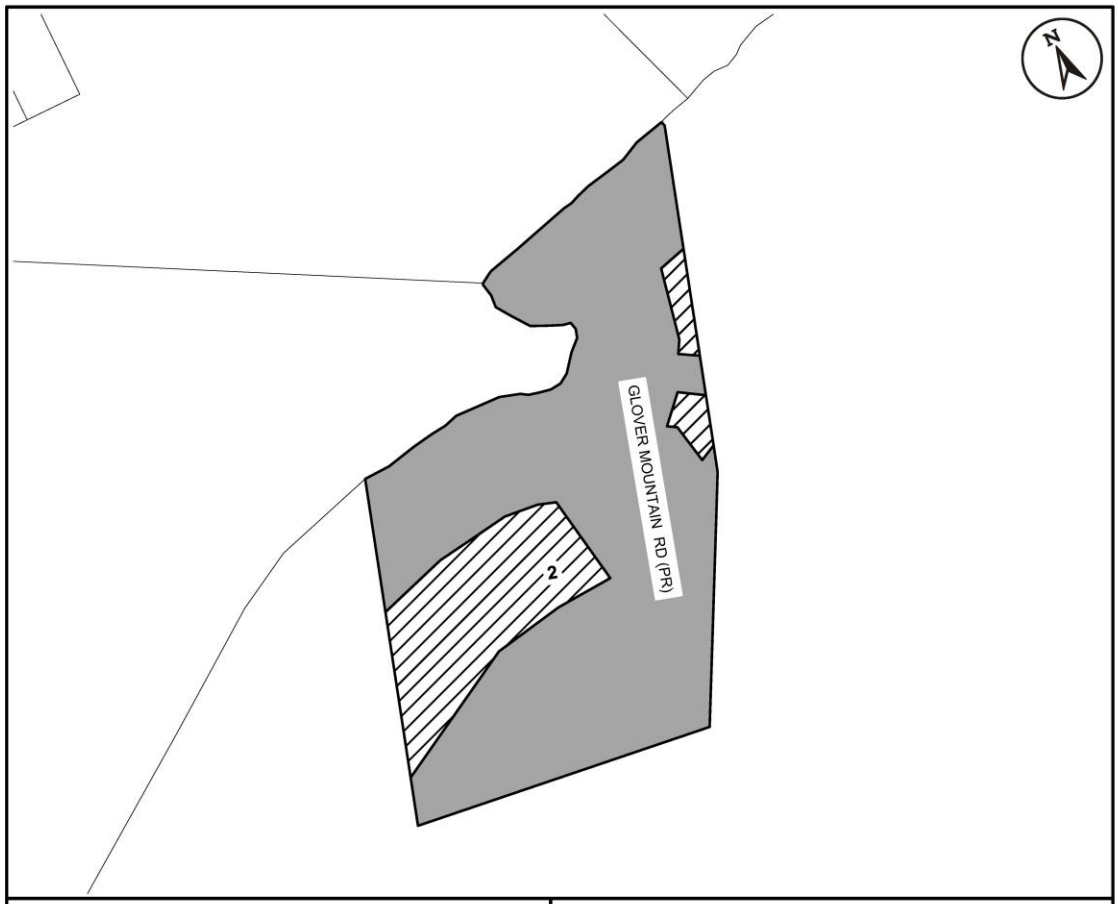
F. Eisenberger
Mayor

R. Caterini
City Clerk

ZAC-16-001
25T-201601

Appendix “B” to Report PED18018

To Amend Zoning By-law 3692 (Stoney Creek)
Respecting lands located at 2 Glover Mountain Road
(Stoney Creek)



This is Schedule "A" to By-law No. 18-

Passed the ..... day of ....., 2018

Mayor

Clerk

Schedule "A"

Map Forming Part of
By-law No. 18-_____

to Amend By-law No. 3692-92

Scale: N.T.S.	File Name/Number: ZAC-16-001/25T-201601
Date: Jan. 18, 2018	Planner/Technician: JR/AL
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT	

Hamilton

Subject Property

2 Glover Mountain Road

Change in Zoning from Neighbourhood Development "ND" Zone to the Single Residential "R4-34 (H1, H2, H3)" Zone, Modified

Refer to By-law No. 05-200

CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	February 20, 2018
SUBJECT/REPORT NO:	Response to the Ministry of Municipal Affairs and Ministry of Housing Consultation on the Regulatory Content of Bill 7 (Inclusionary Zoning) (City Wide) (PED18063)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Edward John (905) 546-2424 Ext. 5803
SUBMITTED BY: **SIGNATURE:**	Steve Robichaud Director, Planning and Chief Planner Planning Division

RECOMMENDATION

(a) That Council endorse the comments and recommendations contained in Report PED18063 and that the City Clerk be directed to forward Report PED18063 and Appendix "A" to the Ministry of Municipal Affairs and the Ministry of Housing as formal comments in response to the proposed regulatory content concerning Inclusionary Zoning; and,

(b) That following the proclamation of Bill 7, the *Promoting Affordable Housing Act*, staff be directed to consult with the community and report back to Planning Committee with a proposed framework for inclusionary zoning in Hamilton.

EXECUTIVE SUMMARY

This Report responds to the request for comments regarding the proposed regulatory content related to inclusionary zoning placed upon the Environmental Registry (EBR) by the Ministry of Municipal Affairs and the Ministry of Housing. The regulation was posted on the EBR December 18, 2017 and a 45 day submission requirement was provided, with the deadline for comments being February 1, 2018. Draft comments which are detailed within Appendix "A" to Report PED18063 were submitted to the Province on January 22, 2018. Once endorsed by Council, this Report including Appendix "A" to Report PED18063 will be forwarded to the Province as the City's final comments.

This Report has been completed in collaboration with the Housing Services Division.

Alternatives for Consideration – See Page 10

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: There are no financial implications as a direct result of this Report, but if Council elects to pursue inclusionary zoning, then determining individual program elements of an inclusionary zoning framework at the local level and preparing an Inclusionary Zoning By-Law, will require resources and a number of studies. The source of the funding required to finalize these matters has not been determined, but capital funding for the necessary staff to conduct the research, implementation and monitoring may be required.

Depending on the specifics of the regulation ultimately established by the Province, implementation of an inclusionary zoning framework could require financial offsets, including exemptions of Development Charges and parkland dedication fees. Resources would also be required to establish agreements to enforce the inclusionary zoning, and to monitor, track and enforce the agreements to ensure affordability over the long term.

Staffing: There are no staffing implications as a direct result of this Report, but if Council elected to implement inclusionary zoning, staff resources would be required to undertake detailed evaluation of growth forecasts, detailed market studies, and modelling of various development scenarios, as well as to implement, and administer the program. Implementation would include drafting agreements, monitoring affordability and eligibility over the length of the affordability period, reporting, etc. The amount of staff resources required is unknown at this time.

Legal: There are no legal implications as a direct result of this Report, but if Council elected to implement inclusionary zoning there would be legal implications related to developing agreements, administration, registering instruments on title, and enforcing legal agreements.

HISTORICAL BACKGROUND

On March 14, 2016, the Ontario Government provided an update to the Long-Term Affordable Housing Strategy. Part of the update included proposed legislation for Inclusionary Zoning (IZ). This legislation was in response to numerous requests received during the consultation on the strategy update, including a request from the City for the Province to establish an Inclusionary Zoning framework through Report CES15032 and the responses to Bill 73 provided in Report PED15093.

The proposed legislation and associated regulations would allow municipalities to mandate that affordable housing units be provided by development proponents as part of residential development projects.

On May 18, 2016, Ontario introduced Bill 204, which is now referred to as the *Promoting Affordable Housing Act, 2016 (Bill 7)*. The bill, proposed amendment to six provincial acts: the *Development Charges Act, 1997; Housing Services Act, 2011; Planning Act 1990, Residential Tenancies Act, 2006; Smart Growth For Our Communities Act, 2015* and *Elderly Persons Housing Aid Act, 1990*.

The *Promoting Affordable Housing Act, 2016* (Bill 7) was introduced on September 14, 2016 and received Royal Assent on December 8, 2016.

The current matters under consideration concern the proposed regulatory content related to inclusionary zoning should the proposed legislation be proclaimed.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Bill 204 Changes

Bill 204 proposed to amend six provincial acts. Those acts with an impact on land use planning were the *Development Charges Act, 1997; Planning Act, 1990; and Smart Growth For Our Communities Act, 2015*.

Key amendments proposed in Bill 204 include:

1. Under the proposed legislation certain municipalities prescribed by regulation will be **required** to implement inclusionary zoning through their Official Plan policies and by passing an inclusionary zoning by-law. Other municipalities, those not prescribed by regulation, **may** choose whether or not to implement inclusionary zoning. The Ministry has been clear through the consultation materials and discussions with staff, that there is no intention to require any municipalities to implement inclusionary zoning. Municipalities will only be enabled to do so. The “required” language is in the legislation only in case the Ministry finds that it is necessary to require inclusionary zoning at some undefined point in the future;

2. Official Plan policies and by-laws to authorize inclusionary zoning, including “any condition, requirement or standard relating” to inclusionary zoning are only appealable by the Minister;

3. A by-law passed by a municipality to give effect to implement inclusionary zoning policies:

a. **must** include requirements for the number of affordable housing units to be provided, the period of time affordability must be maintained, and the requirements and standards that affordable housing units must meet;

b. **must** require that the owners of the new development enter into an agreement with the municipality to implement the requirements set by the by-law. Such agreements may be registered on title and enforced on subsequent owners;

c. **may** include measures and incentives to support inclusionary zoning, unless they are otherwise required by regulation. Measures are planning permissions that can help off-set the cost of building the affordable units, such as increased height and density and reduced parking standards. Incentives are fee waivers, grants, loans, loan guarantees, etc. provided by the municipality;

d. **may** determine the price at which affordable housing units are sold or rented. Generally, successful inclusionary zoning programs are able to meet the need for slightly below market housing rather than more deeply affordable housing;

e. **may** set requirements and standards regarding exterior access, the shape and dimensions of each affordable housing unit, and the approximate location of the affordable units relative to the market rate units. It is uncertain if the affordable units are required to be exactly like the market units, or if some concessions can be made to increase the affordability of the units, such as reduced size, specific location within the development, lesser quality of finishings, etc.; and,

f. **may** require that in the case of condominium projects, any shared facilities agreements are acceptable to the municipality.

4. Other parameters and requirements for implementation of inclusionary zoning include:

a. A requirement for municipalities to monitor and ensure that the affordability of the units is maintained for the required period of time;

b. Municipalities may not use density bonusing (Section 37) to obtain a community benefit from the developer in addition to the affordable units;

c. Municipalities may not accept cash-in-lieu of the affordable housing units, or permit affordable housing units be built on a different site. The intent of this requirement is to ensure that there would be affordable units in every development, ensuring a mix of incomes in every neighbourhood;

d. Minor variances may not be granted to the inclusionary zoning portion of a by-law; and,

e. Long-term leases of new developments containing affordable housing units are exempt from subdivision and part-lot control.

An additional proposed change to the *Planning Act* that any policies, or parts of by-laws that give effect to policies permitting second dwelling units, including any requirement or standard relating to second dwelling units, are not appealable.

Proposed *Planning Act* Regulations

Many of the details regarding implementation of inclusionary zoning will be addressed by provincial regulation the proposed content of which is the subject of this Report. Official Plan policies and zoning by-laws will be required to comply with the regulations.

Urban Hamilton Official Plan (UHOP)

3.2.3.1 The City shall endeavour to provide a facilitative land use planning process for development applications for *affordable* housing and *housing with supports*.

3.2.3.2 Where appropriate, assistance shall be provided, either by the City and/or by senior governments, to encourage the *development* of *affordable* housing, with priority given to projects in areas of the City that are lacking in *affordable* housing. City assistance may include selling or leasing of surplus City land or financial assistance.

3.2.3.4 The City shall identify, promote and, where appropriate, participate in *affordable* housing opportunities funded by senior levels of government.

3.2.3.5 The City shall encourage senior levels of government to adopt a 'Housing First' policy whereby *affordable* housing uses are given priority in the disposition of surplus government owned land.

3.2.3.6 Investment in new *affordable* housing shall be encouraged by a coordinated effort from all levels of government through implementation of a range of strategies, including effective taxation, regulatory and administrative policies and incentives.

The above policies are also contained within the Rural Hamilton Official Plan.

Housing and Homelessness Action Plan (HHAP)

The goal of the following strategies in the City's ten year Housing & Homelessness Action Plan is to increase the supply of affordable housing and promote a mix of incomes in neighbourhoods. Inclusionary zoning has the potential to further both of these objectives.

Outcome Area 1: There is more affordable rental and ownership housing in Hamilton to meet the need and demand.

Strategy 1.4: Explore the feasibility of **inclusionary zoning** and seek necessary provincial legislative changes that would facilitate the implementation of inclusionary zoning in Hamilton.

Outcome Area 2: There is an increase in people's housing affordability, stability and choice

Strategy 2.1(a): Encourage mixed housing and mixed income development in all urban neighbourhoods by: increasing opportunities for rental, social and affordable housing in areas that currently offer limited opportunities.

Strategy 2.2: Develop a policy and strategy to ensure the low and moderate income households in neighbourhoods experiencing economic growth and transformation are not displaced or negatively impacted by gentrification.

RELEVANT CONSULTATION

Housing and Homelessness Planning Group

The Housing and Homelessness Planning Group reviewed the regulatory content and were in support of the position of staff articulated within Appendix "A" to Report PED18063.

Development Industry Liaison Group

The Development Industry Liaison Group (DILG) was provided a brief overview of the proposed regulatory content. Given the significant and complex implications raised within the proposed regulations, separate and more detailed responses are expected to be provided by DILG directly to the Ministry. The high-level responses included the following comments:

- Geographical areas within Hamilton offer varying levels of services. A city wide application would need to identify need and suitability of the location of IZ units.

- Incentives currently exist within certain areas of Hamilton, whether it is Development Charges, Parkland Dedication or parking requirements. Clarification would be required to determine if incentives are to be above and beyond that which currently exists.
- Incentives are needed otherwise costs associated with an IZ framework will be transferred to the market purchasers.

- Similarly ongoing tax and condominium fees require discussion concerning who pays and if this will again be a cost born by market owners only.

- The required assessment report should be completed in conjunction with Municipal Comprehensive Review process.

Staff will investigate the issues raised at DILG as part of the IZ study that is required to be prepared.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Ontario's Long-Term Affordable Housing Strategy Update (LTAHS-U), released in March 2016, is an ambitious plan to increase the supply of affordable housing, transform the housing system, better support people, work in partnership with municipalities, end chronic homelessness, and more. Report CES15032(a) provides an overview of the changes put forward in the LTAHS-U. As part of the commitment to increase the supply of affordable housing, the LTAHS Update committed to bring forward legislation to enable municipalities to implement inclusionary zoning.

The proposed inclusionary zoning authority is intended to help municipalities increase the supply of affordable housing to meet the objectives and targets set out in municipal housing and homelessness plans and official plans.

Inclusionary Zoning

Inclusionary Zoning refers to policies, by-laws and programs that require residential development proposals to include affordable housing units and provide for those units to be maintained as affordable over a period of time. This approach uses the land-use planning approvals process to require private-market development to provide below market-rate rental and/or ownership housing. Programmatic aspects ensure that the units are affordable for a period of time. That length of time and what constitutes "affordable housing" are two of several elements of inclusionary zoning that must be determined for each specific inclusionary zoning program.

While inclusionary zoning can be targeted to varying parts of the housing spectrum, most successful programs are able to create housing, both rental and ownership housing, that is just under market rent or market price. This type of housing is often referred to as "key" or "essential" worker housing; housing for those workers who can't afford a home near their work, but have too high an income to qualify for social housing. In this way, inclusionary zoning has the ability to contribute significantly to reducing affordability programs for those who can afford to pay just under market rates, but will not solve Hamilton's affordable housing program. Additional City incentives such as rent subsidies would be required to create more deeply affordable housing.

Proposed Inclusionary Zoning Regulations

The inclusionary zoning regulations proposed by Ministry of Municipal Affairs and Ministry of Housing have been summarized below:

1. Prescribed Official Plan Policies

    - Inclusionary zoning requirements would only apply to ownership, not rental units.

    - Would only apply to development or redevelopments that propose no less than 20 residential units.

    - Municipalities would determine applicable locations, range of household incomes eligible and set the average market price for each proposed unit type.

2. Municipal Assessment Report

    - Prior to adopting an inclusionary zoning by-law, municipalities must submit a Municipal Assessment Report to the Ministry outlining population and demographic information, municipal housing market trends and projections.

3. Provisions

    - Municipalities could require a maximum of 5% of new units/GFA (gross floor area) to be affordable, 10% if located in a high density transit station area.

    - Affordability period - minimum 20 years, maximum 30 years.

    - For 10 years after the affordability period, the unit is subject to sale price and sale provisions as determined in the regulation.

- Municipalities would be required to provide financial incentive commensurate to 40% of the difference between the market price and the affordable price.

- These incentives could be direct or indirect including aspects such as Development Charge reductions, Parkland dedication reductions, parking reductions and application fee waivers.

- Density bonusing is not permitted as a means to off-set financial impact.

4. Inclusionary Zoning Agreements

    - The municipality shares in the equity of the affordable unit with the owner.

    - The balance or share of proceeds related to the equity upon sale of a unit shifts from the municipality to the homeowner over time; whereas, when the owner has owned the home for two years or less, 90% of the proceeds go to the municipality and 10% go to the owner. After 20 years, 10% of proceeds go to the municipality while 90% goes to the owner.

    - Sharing of the proceeds of equity limited only to the first sale of the unit, however, provisions are in place to limit the use of this property speculation (i.e. flipping of the property).

5. Reporting

    - Municipalities are required to monitor and regularly report back on the number, location and types of affordable units established through the program as well as proceeds related to the sale of affordable units.

6. Off-site provisions

    - Affordable units provided off-site must be located within proximity to the proposed development and lands must be zoned (unless a non-profit housing provider). Affordable units must be ready for occupancy within 36 months and may comprise no more than 50% of the project.

7. Restrictions on s.37 (Bonusing)

    - Inclusionary zoning units or GFA cannot be used to determine community benefits and would not be applicable within a community planning permit system.

8. Exemptions

    - Inclusionary zoning requirements are not applicable to non-profit housing providers, rental developments, where an application for building permit or site plan approval was made before the day that an inclusionary zoning by-law was passed or where concurrent applications were submitted before the day an Official Plan policy was adopted.

9. Community Planning Permit System

    - Inclusionary zoning will be permitted to be implemented within a community planning permit system. A community planning permit system allows for review of development applications in a comprehensive fashion, whereby zoning and site plan process are conducted at the same time.

Given the short response time given by the Ministry (responses had a deadline of February 1, 2018), staff prepared responses and submitted these to the Ministry on January 22, 2018. This response is contained in Appendix "A" to Report PED18063 and staff noted that the comments provided were staff comments only to meet the Provincial deadlines and that formal City of Hamilton comments would be forthcoming once Council considered the matter.

Responses to the Proposed Inclusionary Zoning Regulations:

The recommended responses to the draft inclusionary zoning regulations posed by the Province are in Appendix "A" to Report PED18063. In summary, it is the position of staff that the proposed regulatory content successfully balances the individual program and implementation elements that should primarily be determined at the local level with those that should be determined at the Provincial level. However, some elements determined at the Provincial level require additional consideration, in particular the requirement for a financial contribution by the municipality.

Additional Considerations:

In addition to the above responses, staff raised a number of additional considerations including: the absence of provincial incentives and funding, as well as the need for additional planning tools to determine affordable unit suitability. These outstanding matters should be addressed by the Province.

ALTERNATIVES FOR CONSIDERATION

The City could forego the opportunity to provide comments to the Province at this time.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Economic Prosperity and Growth
Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

Healthy and Safe Communities
Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.

APPENDICES AND SCHEDULES ATTACHED

- Appendix "A": City of Hamilton Responses to the Ministry of Municipal Affairs and Ministry of Housing proposed inclusionary zoning regulation

EJ:mo

**Ministry of Hamilton Response to the
Ministry of Municipal Affairs and Ministry of Housing
Regarding the Proposed Regulatory Content for Inclusionary Zoning with respect to *The Promoting Affordable Housing Act, 2016,* Bill 204**

Summary of Responses to the Proposed Regulatory Content

1. Prescribed Official Plan Policies

The Municipalities would be required to adopt Official Plan policies that include provisions for the following:

Threshold:
As detailed in the proposed regulatory content, zoning by-laws giving effect to the Official Plan policies could only apply to development or redevelopments that propose no less than 20 residential units.

Comments:
As previously commented, staff were of the opinion that thresholds should be determined at the local level, to ensure the threshold size is responsive to the form, scale and type of current development occurring across Hamilton.

It was considered that at the municipal level, introduction of a sliding scale would assist in creating a meaningful threshold across the various geographical areas of Hamilton, as well as avoiding the potential for developments to be sized immediately below the threshold to avoid triggering the requirement for affordable units. This is particularly concerning given the potential for IZ to be applied to subdivisions, whereby developers may choose to register their developments in phases such that they do not trigger the requirement for affordable units.

Locations and Areas:
Staff are supportive of the discretion to choose appropriate locations within the Municipality to apply IZ requirements.

Range of Household Incomes:
Staff are supportive of the discretion to identify a range of household incomes for which IZ by-laws could provide for affordable housing units.

Average Market Price:
Staff are supportive of the municipal ability to identify an approach within their Official Plan policies to set, as well as vary across different locations within the municipality, an average market price for each proposed unit that may be required as affordable housing units in an inclusionary zoning by-law. This is particularly useful in a municipality such as Hamilton with a wide diversity of housing markets.

(i.e. urban and rural). This would create a more meaningful and responsive IZ framework.

Other:
Staff are supportive of the municipal ability to place restrictions, in addition to an income threshold, on household eligibility to purchase IZ units.

2. Municipal Assessment Report

A reasonable requirement, but would require administrative funding to complete. The Province should provide additional resources and detailed guidelines.

3. Provisions Required in IZ By-laws

Unit Set Aside:
Staff previously commented that a broad minimum and maximum range would be beneficial, with the authority given to the municipalities to determine exact set aside requirements following review of local housing markets and the key targets established within the municipalities presiding policy documents (Official Plan / Housing and homelessness Action plan).

On this matter, the 5% set aside value is considered conservative and staff has concerns over the ability for such a value to satisfy increasing housing affordability issues within Hamilton. Based on the current regulations and applying the framework to Hamilton’s 2017 development activity, Hamilton would have been able to secure approximately 30 IZ units in 2017.

Staff would instead prefer a higher maximum set aside with flexibility for municipalities to determine set asides based on local market dynamics and other IZ requirements. For instance the required set aside could be different for off-site IZ provision, housing types, etc.

Staff also raise the question regarding the authority to ‘round up’ or ‘round down’ values, and would request that this be a factor determined at the municipal level.

Notwithstanding this concern with the 5% set aside value, it is noted that this value does increase to 10% in ‘high-density transit-station areas’ identified within a municipality’s Official Plan. These areas represent important opportunities to take advantage of increased intensification in locations that offer services considered important for those residents who are in search of affordable units.

It is also noted that the flexibility in where the IZ by-laws can be applied and the determination of the threshold level by the regulation are inter-related matters and determination of these factors should be reviewed collectively. On this basis, while the applicability of the IZ framework may be tempered by the provisions determined

within this regulation, they do provide some much needed clarity on the extent and direction IZ by-laws should take.

Finally, the ability to consider either unit numbers or gross floor area with regards to the amount of the development to be used for affordable housing is a more responsive and fair approach.

Affordability Period:

Hamilton is supportive of the range of affordability period of 20 to 30 years and for the precise term to be determined by the Municipality.

Hamilton is generally supportive of a shared equity model and the lack of restriction on the use of municipal proceeds from the sale of an IZ unit. In 4. iv) “the price at which the owner sold the affordable housing unit” should reference “fair market value.”

Measures and Incentives:

The requirement for municipalities to provide direct financial incentives would make an inclusionary zoning framework unworkable. Councils would find it challenging to support financial incentives for ownership housing that is moderately affordable at best. Based on the current proposed regulations, the City of Hamilton would likely have to forgo Development Charges on the ‘affordable units’ in order to achieve only shallow affordability (10% below market). Deeper affordability would result in potentially even further capital investment from the municipality.

The flexibility in the provision of measures (both direct and indirect) to account for the financial implications of an IZ By-law is noted, however, the City of Hamilton has already adopted a number of these measures to date, including reduced parking rates and fee waivers for affordable housing developments. As such, availability and appropriateness of additional incentives are limited within the Hamilton context.

Notwithstanding this, should indirect incentives be pursued, this raises questions over how, for instance, a value is determined for a parking space requirement which has been exempted. On this matter, direction on who and how measures / incentives are determined and applied is sought, given the concerns of potential arbitration with developers who may for example seek DC exemptions whereby municipal staff prefer to apply alternative measures to address the financial consideration.

With respect to density bonusing, it is appreciated that this is not considered a requirement, given that Hamilton has sought to ensure future zoning allowances represent significant consideration of how and where Hamilton grows, and bonusing above that may potentially undermine the vision of growth within Hamilton.

Staff consider that if incentives are to be mandated, it should be in instances where the municipality seeks to increase the set aside beyond 5% or alternatively where deeper affordability thresholds are sought. Under these circumstances, a 60/40

share in the financial impact beyond that contemplated in the regulations (based on the increase in units and / or affordability), would seem more appropriate. Further, it is noted that provincial opportunities such as Provincial Tax exemptions have not been considered and that these incentives could prove increasingly meaningful within the proposed framework.

Price:
Staff support the ability of municipalities to set prices (initial and resale prices) for inclusionary zoning units.

4. IZ Agreements

Staff are supportive of the municipal ability to place restrictions, in addition to an income threshold, on household eligibility to purchase IZ unites.

Comments with respect to the proposed equity share model are addressed under “Affordability Period.”

5. Reporting / Monitoring

Staff are generally supportive of reporting requirements.

6. Off-site Provisions

Staff are supportive of the flexibility to permit off-site provisions, albeit that consideration of cash-in-lieu would have been also complimentary to an IZ framework in Hamilton, given the variation in land values and varied Geography across Hamilton.

The clear requirements regarding how much, and timing for delivery of off-site provisions are appreciated. However, it is unclear what ‘located in proximity’ would mean, and what if any, the implications would be for units to be delivered in areas with different average market price.

Additionally, it is unclear as to what penalties the municipality could impose should adherence to the 36 month period not be satisfied. Clear guidance and potentially direction of which planning tools could be applied would be appreciated.

7. Restrictions on Use of s.37

Staff are satisfied with the flexibility and limitations placed within the use of s.37 options, and consider them a reasonable response to our previous comments.

8. Exemptions

Staff acknowledges that the decision to exempt rental housing units from IZ regulations is to encourage increased development of rental units, however; staff consider that the decision to exempt such units should be discretionary and made at the municipal level, based on the individual market impacts and variation across the municipality.

Staff support the decision to exempt non-profit housing providers from the regulations.

With respect to the proposed transitionary exemptions, staff are supportive of the approach, which as previously commented, would provide sufficient time for developers to address their development pro-formas accordingly.

9. Community Planning Permit System

Although Hamilton currently does not have any plans to adopt CPPS, inclusion of IZ regulations within the amended O. Reg. is supportable.

10. General Matters

Costs:
This IZ framework imposes an unfunded mandate on municipalities in the form of administrative program and monitoring costs. While there will be some influx funds as IZ units are sold, these should be reinvested into the program rather than used for reimbursement of administrative costs incurred many years previous.

Suitability:
There was no mention in the regulations regarding powers to assess ‘suitability’ of the affordable units created. Clear criteria needs to be established in which to determine what makes a unit ‘suitable’. If this is to be determined at the municipal level, guidance should be provided by the Ministry in order to ensure consistency in approach is secured across Municipalities.

On this matter, the 2017 Growth Plan requires municipalities to complete a Housing Strategy as part of the Municipal Comprehensive Review. The Growth Plan policies stress the importance of including affordable housing as part of the range and mix of housing options. Further, the Growth Plan, through policy 2.2.6.3, requires municipalities to “consider the use of available tools to require that multi-unit residential developments incorporate a mix of unit sizes to accommodate a diverse range of household sizes and incomes”. Staff note that there is a lack of tools available through which a municipality can require the provision of a range of unit sizes within multi-residential buildings. Staff further note that the IZ regulations, as provided, do not provide any additional tools to aid municipalities in meeting this requirement. Staff require clarification from the Province regarding Growth Plan

policy 2.2.6.3 and the inability of municipalities to satisfy this policy in light of the lack of available tools.

Condominium Fees:
Given the inability of municipalities to use cash-in-lieu in the implementation of inclusionary zoning, buildings with comparatively high condominium fees may be required to provide affordable units. There is an outstanding question of how these fees would be applied to affordable units. Limited access or restrictions to shared facilities may be counter to the intent to create inclusive communities, whereas reduction or elimination of fees for occupants of the affordable units could lead to higher fees and tensions between those in the affordable units and owners of the market units.

Tenure:
The proposed regulations appear to be focused on an ownership model. However, rental remains a much required source of affordable housing within Hamilton. Would the IZ framework be able to be applied to secure rental units? If so, would this be permitted to be addressed within the Official Plan Policies?

For context Staff have also attached our previous comments sent to the Ministry with respect to the Promoting Affordable Housing Act 2016 (Bill 7).

Previous Responses Sent to Ministry

Planning Act Application Fees:
It is noted that the Minister will be prescribed powers to determine application fees. It is noted that the City of Hamilton has already provided fee waivers for certain development applications that are providing affordable housing. However, there would be concern over the decision to further modify the approach for application fees currently in operation within Hamilton. Application fees are based on cost recovery, understanding the staff time and subsequent costs to the municipality to review development applications. Additional fee reductions mandated from the province would have implications with respect to the review costs and budgetary operation of the City.

Parking:
Bill 204 will provide the Minister the authority to determine parking and loading requirements for affordable units. A number of issues determine parking demand requirements. Affordability is one such issue, but access to transit, size of household and specific locational attributes also need consideration. Given Hamilton’s varied communities, it is the position of the City of Hamilton that such provisions be determined at the municipal level.

Cash-in-lieu:
In consultations staff heard repeatedly that while inclusion is an important component of inclusionary zoning, there are some limited circumstances in which providing units in a particular development is not practical. For example, an expensive condominium building for which the condominium fees would be high or a suburban or rural subdivision that is not readily accessible by transit or to services. Additionally, not allowing cash-in-lieu in some circumstances could create some unreasonable situations. Examples of these unreasonable situations could fuel the argument against a municipality adopting inclusionary zoning at all. While cash-in-lieu should not be permitted broadly, municipalities should have the ability to employ it in certain select situations.

Conclusion:
The City of Hamilton would emphasize the need for a greater understanding of the local impacts of the proposed legislative changes and caution against any changes that may result in outcomes that may otherwise prejudice either the adoption or overall success of an Inclusionary Framework within Hamilton.

Inclusionary Zoning Consultation Discussion Guide

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”?

   Comment:
   As each municipality has unique affordable housing needs that may differ significantly from the needs in other municipalities, municipalities should determine the income groups targeted by their inclusionary zoning by-laws. The City’s 10 year Housing & Homelessness Action Plan provides a framework and direction to determine any targeting.

   With respect to the definition of affordable, the intent of an inclusionary zoning framework is to increase the number of affordable units throughout Ontario. Many existing inclusionary zoning programs in other jurisdictions seek to target families and individuals that earn too little to afford market rate housing and too much to qualify for social assistance. In some programs, income is not the sole determinant as units can be targeted to specific groups such as those in need of supports.

   Relating this framework to Hamilton’s own goals and targets, the Urban Hamilton Official Plan (UHOP) provides a definition of affordable as detailed below:

   “**Affordable** means:
   a) in the case of ownership housing, the least expensive of:

      i) housing for which the purchase price results in annual accommodation costs which do not exceed 30 percent of gross annual household income for *low and moderate income households*; or

      ii) housing for which the purchase price is at least 10 percent below the average purchase price of a resale unit in the City of Hamilton; and,

   b) in the case of rental housing, the least expensive of:

      i) a unit for which the rent does not exceed 30 percent of gross annual household income for *low and moderate income households*; or

      ii) a unit for which the rent is at or below the average market rent of a unit in the City of Hamilton (PPS, 2005 amended); and,

   c) in the case of housing developments, at least 25 percent of either *affordable* ownership or *affordable* rental housing. For the purposes of the policies of this

Plan, *affordable* housing developments may include a mix of *affordable* and market rate units, both ownership and rental.”

The UHOP definition – which is based on that in the PPS, provides criteria that would enable housing for both shallow and deep affordability. However, when applying this to an inclusionary zoning framework, which will be applicable only to new units, the definition may be too broad and in some instances too restrictive. For instance, it is unlikely that newly constructed rental units can achieve rents below average market rents. The form inclusionary zoning may take in Hamilton must therefore be determined through a thorough analysis of local conditions including both housing need and market realities.

As such, should the City of Hamilton elect to adopt an inclusionary zoning framework, the determination of the target group should be predicated on a definition specific to inclusionary zoning requirements and which is formulated through additional review and assessment of policy goals and targets in combination with current market realities. It should be noted, however that most successful inclusionary zoning programs target affordability of just below market rates, which would meet the needs of households with moderate incomes. It is much more difficult to meet the deeper affordability needs of households with low incomes, and would require additional programs such as rent subsidies.

Recommendation:

Municipalities should be responsible for determining the target groups applicable within an inclusionary zoning framework. The definition of affordable should be specifically related to the determined target groups to ensure it is implementable and successful.

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?

   Comment:

   Municipalities are the most knowledgeable about their unique housing market and submarkets and are thus best equipped to determine how price and rent would be determined in their inclusionary zoning by-laws. Once the target groups have been determined, review of housing need and market conditions particular to the identified groups will be required at a localized geographical level to ensure the intent of the framework is being delivered.

   The City’s 10 year Housing & Homelessness Action Plan provides a framework and direction to inform price and rent levels. However, a guideline, prepared by the Province that sets out various options for methods of determining price and rent would be helpful to municipalities.

Recommendation:

The Province should provide a general guideline with respect to the various options for determining price and rent; however, final determination should rest with the municipalities.

3. Should minimum and / or maximum unit set asides be specified Province-wide or should this be left to each municipality to determine?

Comment:

The Province could set very broad minimum and maximum set asides, but municipalities should determine the specifics within that range based on local conditions. Provincially set minimum and maximum set asides would give both the development industry and the housing sector assurances that municipally determined set asides will be reasonable. Preliminarily, we would suggest that a minimum and maximum that would give both the housing sector and development industry some level of comfort would be in the range of 5% to 25%. Based on existing targets in the Urban Hamilton Official Plan and Housing and Homelessness Action Plan and the most recent growth projections produced for the Growth Plan, 25% of all new residential would need to be affordable to meet growth projections; 10% of rental development and 15% of ownership development. The determination of actual set asides would require a much more in depth analysis, particularly market analysis and public consultation, but this provides a reasonable top limit.

Consideration of different forms of housing within the Hamilton market will be required, specifically as related to the need of the identified target group and observed growth and distribution of existing and future development.

Ultimately, given the unique and varied nature of the Hamilton housing market, the determination of the set aside should be a matter for the municipality, in consultation with the local community. Set asides need to carefully and sensitively respond to municipally specific housing markets and growth projections, and apply only once the municipality has assessed the locations for growth. The creation of a toolkit would assist staff in making these decisions at a local level, and would be a more beneficial response from the Province. The Province should not make specific decisions on program elements.

Further, it is difficult to consider specific set aside provisions without understanding the threshold of development in which the set aside provisions would be applied. The two are inextricably linked. Similarly, both of these program elements need to be considered in conjunction with the intended target groups as the level of affordability also affects the consideration of appropriate set aside and threshold values.

Recommendation:

The Province should provide a toolkit to assist municipalities to determine unit set aside amounts locally, but should not regulate a required set aside.

Alternatively, the Province could set broad maximum and minimum set aside parameters provincially to provide comfort to both the housing sector and development industry, but should not regulate specific set asides. The Province should also provide a toolkit to assist municipalities determine local set aside amounts.

If you think that a specified number or percentage of units should be applied Province-wide, what would you recommend?

Comment:

As stated above, it is suggested that a specified number or percentage should be established by the municipality based on a greater understanding of the need of the identified target group and the market and geographical condition. The Province could consider setting a minimum and maximum threshold in order to provide guidance and clarity to both the development industry and municipalities.

On this matter it is suggested that a range between a minimum of 5% and a maximum of 25% would be reasonable, with individual municipalities determining specific set asides following additional review, consultation and study.

It may also be beneficial to determine a standardized metric that is to be employed by each municipality. While Bill 204 proposes that the set aside be a percentage of unit numbers, basing the set aside on Gross Floor Area should be considered. Using gross floor area takes into account the relative size (and potentially the cost) of units, with larger units contributing more. It also better enables the provision of large affordable units which are much in need.

To assist in determining this program element, further analysis is required, including a needs assessment and full market and submarket analysis. While the ideal from the need perspective is to maximize affordable units, this must be balanced with market considerations to ensure inclusionary zoning doesn’t deter development. This is of particular concern regarding rental housing as with current conditions rental housing is only financially viable with substantial incentives and high rents.

Recommendation:

The Province should provide direction on minimum and maximum set aside and consider standardizing the measurement to allow for meaningful benchmarking, but municipalities should ultimately determine set asides based on need and market conditions. Notwithstanding Bill 204, the Province should consider permitting set asides, not just on unit numbers, but on gross floor area.

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?***

Comment:
There would be benefit in the Province setting a minimum affordability period, but allowing municipalities to require longer affordability periods. It is important to consider affordability periods for rental and ownership independently, with rental being the most challenging for the development industry. With ownership units, the administration of the affordability maintenance could be onerous for municipalities unless there are legislative changes, but there is no impact of a long affordability period on the developer.

Longer affordability periods mean a greater administrative burden for municipalities. Additional resources will be required to do the ongoing administrative work necessary to ensure that affordability is maintained.

Furthermore, the lifespan of the unit and ongoing maintenance and operational costs need to be factored in, understanding that periods beyond 30 years would experience increasing costs as the units reach the end of their life cycle.

Recommendation:
The Province should provide a minimum affordability period, and provide financial and program assistance to support the administrative requirements.

If you think a Province-wide affordability period should be specified, what would you recommend (e.g., 20 years, 30 years, no time limitation)?

Recommendation:
It is important to set separate set asides for rental and ownership housing as the impacts of each set aside are very different. A minimum affordability period of 20 years for rental units, with municipalities able to set longer affordability periods is appropriate.

With respect to ownership, indefinite affordability should be considered as there is no negative impact on the developer. It should be up to municipalities to determine an appropriate level of equity for the owners of an inclusionary zoning unit.

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?

Comment:
Similar to the answer to the set aside question, (Question 3), it would be necessary to ensure the threshold size is responsive to the scale, type and form of current development in Hamilton and is responsive to the identified target groups.

The threshold should be determined on the unit yield of developments. A sliding scale would allow the program to be responsive to smaller and mid-range developments and allow threshold limits that would not unreasonably distort the market. A sliding scale could also eliminate the potential for developments to be sized at immediately below the threshold to avoid triggering the requirement for affordable units.

It is noted that implementation and monitoring of inclusionary zoning would create administrative burdens, with significant impacts on staff time and resultant costs to municipalities. The Province should provide funding to offset these costs.

Finally it is noted that variations exist not only between municipalities, but also between different communities within municipalities. A Province-wide threshold that is not responsive to these differences could make the inclusionary zoning tool less effective.

Recommendation:
Threshold size should be determined at the municipal level.

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?

Comment:
The need for meaningful and appropriate measures and incentives is crucial to the success of inclusionary zoning. This will need to be integrated and supported beyond the tools currently available to municipalities and could include matters such as Ontario Municipal Board reforms, Provincial tax exemptions as well as other provincial tools that should be discussed and developed collaboratively. There is also greater need for wider and potentially more costly incentives in order to address deep affordability.

However, it is requested that municipalities not be mandated to provide specific measures or incentives, but provided the flexibility to review and apply incentives where necessary. Hamilton currently offers numerous incentives, including partial waiver of Development Charges, Parkland dedication reductions and application fee waivers. The ability to determine locally how and where such incentives should be provided, would be necessary to ensure success of any potential inclusionary zoning framework.

Recommendation:
Measures and incentives should not be required through regulation, but be program elements determined and applied at the local level.

The Province should consider systemic and legislative changes to reduce the cost of development, thereby enabling increased housing affordability. Changes could include Ontario Municipal Board reforms and provincial tax exemptions and should be developed in consultation with municipalities and the development industry. The Province should also assist municipalities by providing access to current research, forums for the sharing of information among municipalities, and the development of guidelines that lay out options, the benefits and drawbacks of each, and considerations for implementation.

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?

Comment:
The Ontario Building Code determines minimum building standards that must be observed. These are sufficient building standards for affordable units, but guidance from the Province would be helpful in regards to other factors that come under ‘suitability’ in Bill 204.

Recommendation:
The Province should not specify minimum requirements and standards, but should allow municipalities to determine specifics and instead provide guidance in regards to factors that are considered to determine the threshold of ‘suitability’ as raised within Bill 204.

If you think requirements or standards should be specified Province-wide, what would you recommend?

Recommendation:
The Province should not specify minimum requirements and standards, including for parking and loading as proposed in Bill 204, but should provide guidance to municipalities in regards to factors that are considered to be ‘suitability’ in Bill 204, These include the relative location of affordable units; relative size of affordable units; treatment of the affordable units through site plan review including external access and, if relevant, exterior design; the relative quality of finishes; access to on-site amenities; reduced parking requirements for affordable units; and review of shared facilities agreements for condominiums. As noted above, this guidance should be in the form of access to current research, presentation of options including the benefits and drawbacks of each, and considerations for implementation.

If the Province does specify minimum requirements and standards, these should balance the principle that affordable units be indistinguishable from market units on the exterior, but allow certain differences to help offset costs, such as lesser quality finishes.

8. Should there be provincial direction on inclusionary zoning agreements?

Comment:
General direction on the items to be included in inclusionary zoning agreements and a basic template would be helpful for municipalities.

The agreements should be in a form that ensures execution and registration of the legal documents does not create any impact on the development review timelines.

Recommendation:
The Province should provide templates to inform the creation of inclusionary zoning agreements and ensure execution and registration of the legal documents does not create any impact on the development review timelines.

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?

Comment:
The requirements for ongoing administration of affordable units and to ensure affordability of units over time proposed in Bill 204 are appropriate. However, municipalities should determine the most appropriate mechanisms for administration and for ensuring long term affordability and eligibility, particularly if the Province does not provide funding for administration of inclusionary zoning. The provision of best practice information, including a suite of potential program models, by the Province would be helpful. Maintaining affordability and eligibility will be administratively burdensome for municipalities, requiring additional resources. Municipalities should be enabled to use third parties to undertake the administration, but not be required to do so.

Additionally, legislative changes should be adopted to better enable municipalities to secure long term affordability of ownership units.

Recommendation:
The Province should provide best practice information and potential program models regarding ongoing administration of units and monitoring of affordability over time, but should allow municipalities to determine how best to undertake the monitoring. Additionally the Province should make any legislative changes necessary to ensure long term affordability of ownership units.

10. Should there be Provincial direction on mandatory requirements for municipal monitoring procedures?

Comment:

There should be basic requirements for ongoing administration of units, and to ensure affordability of units and eligibility of purchasers or new tenants over the control period. Income testing will be required for new purchasers or tenants of the affordable units at turnover, on an ongoing basis, to ensure affordable units are available for the intended target group. Municipalities will be required to take on significantly more administrative responsibilities and will need additional resources for this purpose.

If so, what mandatory requirements would you recommend?

Recommendation:
There should be basic requirements for ongoing administration of units and to ensure affordability of units and eligibility of purchasers or new tenants over the control period.

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?

Comment:
There should be requirements for municipalities to annually report the numbers and types of affordable units, and the level of affordability, produced by inclusionary zoning. These Reports should be available publicly and received by the Province. The Province should combine the individual reports and publish an annual Provincial report. With time the reports will help determine the relative success of different models and parameters of inclusionary zoning programs.

Recommendation:
The Province should provide direction on the annual reporting of inclusionary zoning units.

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?***

Comment:
Municipalities should be permitted to require Section 37 community benefits in addition to inclusionary zoning units in some circumstances. For instance, the City of Hamilton is reviewing its growth related development strategy, and it is likely that areas such as nodes and transit corridors will be planned to achieve significant density increases. It is in these circumstances, that the application of density bonusing in addition to inclusionary zoning, may be both reasonable and advantageous. It would be appropriate to require inclusionary zoning on the units permitted through City initiating rezoning, but also allow Section 37 community

benefits should any additional height and density be deemed appropriate on a site by site basis.

Similarly, Hamilton has considerable built heritage resources that are being considered for development and adaptive re-use. The ability to apply Section 37 to increase the height and density of these developments and use the ‘bonus’ to ensure the protection of the heritage resource achieves numerous policy objectives.

To limit the ability of municipalities to apply both legislative options on a single site that has benefitted considerably from either density or built form provisions would unnecessarily hinder the ability to leverage growth in a sustainable and appropriate manner.

A more reasonable approach would be to apply a hybrid approach that applies inclusionary zoning requirements only to the base zoning permissions, and permit Section 37 to apply to the increase in height or density. Allowing the municipalities to adopt this approach, would ensure all community benefits appropriate to a given development application are secured and policy goals are achieved.

Recommendation:
Municipalities should be permitted 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?

Comment:
It is not considered necessary to apply restrictions at a provincial level, given the unique differences in development activity across the Province. Should the Province determine that restrictions are necessary – such as a hybrid approach, it should provide the flexibility for the municipalities to determine these circumstances, and include them as part of the Official Plan policy changes required to implement an inclusionary zoning framework.

Recommendation:
Municipalities should determine the circumstances in which it may be appropriate to apply Section 37 in addition to inclusionary zoning requirements, and to include conditions and circumstances for such as approach as part of the Official Plan policy changes.

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

Comment:
Any development application is the product of extensive planning and significant financial assumptions. The introduction of inclusionary zoning requirements partway

through the development approvals process is likely to have a significant impact upon any development projects in the planning stages, impacting the development process itself, development plans, the financial viability of the project, as well as whether the application is approved. For applications commenced prior to the enactment of the proposed legislation, an inclusionary zoning requirement would be unreasonable and punitively affect the development application.

Recommendation:
The Province should provide clear and well defined transition regulations that include the grandfathering of planning applications commenced prior to enactment of the proposed inclusionary zoning legislation in Bill 204.

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?

Comment:
Similar to the comments presented above, sufficient time should be available within the development process to allow for potential financial impacts to be appropriately accommodated, particularly as there will be a lag in time between provincial regulation and any adoption of Official Plan policy and Zoning By-law. As such, staff would be supportive of a means to exempt planning applications that have commenced prior to municipal adoption of inclusionary official plan policies and/or zoning by-laws.

Clear and well defined transition regulations are required with specific timeframes and parameters such that any ambiguity is avoided.

Recommendation:
The Province should provide clear and well defined transition regulations that include the grandfathering of planning applications commenced prior to municipal adoption of implementing inclusionary zoning Official Plan policies and / or Zoning By-laws.