
Affordable Housing in Ottawa, Ontario: A Case Study of Land Use Policy and Transferability

Prepared for the Affordable Housing Implementation Team by Greg Sauer¹
Planning Student, Faculty of Environmental Design, University of Calgary

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Executive Summary

Information for this report, carefully considered for its applicability to the Calgary context, is a synthesis of web-based studies of Ottawa's initiatives and personal communications with key City of Ottawa informants. Identified below are a series of land use and policy decisions that, where possible, have been used in combination to spur the market to produce affordable housing in Ottawa. This paper does not critically evaluate each initiative for its effectiveness; rather, the goal is to consider transferability to and desirability for Calgary.

What the reader will find in the following text is a brief on initiatives that have been adopted in the Ottawa context and, at a minimum, should at least be considered for their use in Calgary. Despite arguments that may for a variety of reasons suggest that a particular initiative has no applicability or does not provide a desirable outcome in Calgary, this case study may suggest otherwise. One of the greatest lessons learned through research of the City of Ottawa's affordable housing initiatives is that no magical formula exists to solve contemporary problems. However, given the option between a full toolbox of progressive opportunities and the status quo, the research on Ottawa suggests that a comprehensive and inspired approach is both desirable and necessary.

Topic areas that will be covered in the following text include a City of Ottawa affordable housing primer, followed by policies in support of affordable housing. This latter section includes a discussion of land acquisition and dedication; inclusionary zoning; secondary dwelling units; density bonusing and incentives; cash-in-lieu of parking; condominium conversion; demolition policy; down-zoning; and alternate development standards.

¹ The opinions expressed in this paper are strictly those of the author and not The City of Calgary. The information contained in this report has not been verified by The City of Calgary.

Key findings the reader can expect in the following text pertain to policy directions that The City of Calgary may consider pursuing as part of its ongoing efforts to meet affordable housing targets. One of the premiere findings of this research suggests that the framework guiding municipalities, often referred to as enabling legislation, can in some cases be more disarming than enabling. It is therefore recommended that The City of Calgary pursue an advocacy role with the Alberta Government in key areas including the ability to provide for inclusionary zoning, secondary dwelling units, density bonusing, condominium conversion, and restricting the demolition of affordable housing.

Further, there are a number of areas where The City is empowered through the existing legislation. These areas will still require extensive consideration for their application to the Calgary context and also to ensure the maximum benefit is obtained. Affordable housing policy areas found in Ottawa that should be considered locally include:

- Continuing to acknowledge housing affordability as a key policy area in the Municipal Development Plan, Land Use Bylaw, and future corporate strategic studies and plans
- Consideration of affordable rental housing as a municipal facility
- A cash-in-lieu of parking policy
- Restricting down-zoning from medium or high density to lower densities for areas currently providing affordable housing, and
- A wholesale consideration of alternate development standards.

It is important to note that a number of funding concerns that have been observed in the preparation of this document have significantly impaired and in some cases prohibited City of Ottawa staff from following through with the actual implementation of programs and procedures to support policy. As a result, the action plans and policy instruments alluded to above have not all been successfully employed to date. They do, however, provide a useful heuristic for The City of Calgary.

1.0 Introduction and Context

Since the early 1990s, the housing market has been unable to deliver new affordable housing stock in the majority of Canadian cities. Although a number of related factors have contributed to this decline in housing starts, the federal government's decision to halt funding for social housing beginning in 1994 has been its primary cause. It was assumed and expected that local governments and non-profit organizations would make the necessary adjustments and provide this service; however, without the commensurate funding or experience to undertake this new mandate, healthy housing markets have been reduced to unacceptable levels.

One of the hardest hit municipalities was Ottawa, with average rents – a good indicator of housing affordability – lagging behind only the metropolitan cities of Toronto and Vancouver. When coupled with the lowest vacancy rates in the country, Ottawa has been left with 51,000 households in Core Housing Need (a measure used by Canada Mortgage and Housing) and a social housing waiting list that stood at approximately 11,500 in 2004 (City of Ottawa, 2005a). Given these levels of demand for affordability, it is of little wonder that Ottawa has been forced to respond to this escalating demand in recent years.

Canada Mortgage and Housing (CMHC) provides a universally accepted criterion to measure core housing need across Canada: adequacy, suitability and affordability. It is the final measure, affordability, which is the primary focus of this research. For the City of Ottawa, the core housing needs assessment suggests that 51,000 households meet at least one of these criteria, with affordability being the overwhelming concern for those in core need. Recent statistics tell the tale of the affordable housing crisis in Ottawa: seven per cent of those in need live in substandard or unsuitable living conditions and 93 percent cannot currently afford their housing (City of Ottawa, 2005a), meaning that they pay more than 30 percent of gross household income for shelter.

Although not yet at Ottawa's current demand level for subsidized housing, The City of Calgary has recognized an increasingly urgent need for affordable housing and has taken a proactive approach in addressing this issue. One of The City's approaches has been to learn from programs and initiatives that have proven successful in other municipalities. The City of Ottawa, with a similar population base and an inspired attempt to deal with this crisis, provides an excellent heuristic for The City of Calgary and the impetus for this paper.

Constructing new affordable housing is attractive to neither private for-profit nor not-for-profit developers at present, given that the revenue generated by such projects is insufficient to justify high building costs and high risks. Even without accounting for the developers return on investment (applicable for private developers only), the payback generated through affordable housing projects is not sufficient to cover associated mortgage payments.

As such, the reality of providing affordable housing in any marketplace is difficult at best and the result has been long social housing waitlists in both Calgary and Ottawa. Each city has been required to intervene in an effort to promote affordable housing through fiscal and policy decisions targeted at eliminating the funding gap.

2.0 City of Ottawa – Affordable Housing Strategy

The City of Ottawa was thrust into a role of affordable housing administrator through the passage of the *Social Housing Reform Act* (2000), which effectively transferred all responsibility for affordable housing from the Province to the City. This reform further hampered housing affordability, which had been in decline since the 1994 federal program cuts.

In response to these new realities, the Council of the Region of Ottawa-Carleton approved the Community Action Plan to prevent and End Homelessness (City of Ottawa, 2005a). As part of the City's Action Plan, a Task Force sponsored by the Mayor was created in 2001, and became known as the Mayors Task Force on Public/Private Partnerships for Affordable Housing. Task Force members were individually selected based upon merit and specific related experiences, with members drawn from backgrounds such as residential development, financial services, real estate, law, architecture, social housing providers, homelessness alliances, and City Council. The Task Force was given a mandate to consider the problems being faced by the Region with respect to affordable housing and, specifically, to find ways to reduce waiting lists, stimulate the production of affordable housing, engage the private sector, and identify and implement public/private partnerships (City of Ottawa, 2005a).

Further to the formation of the Mayor's Task Force, City Council approved an Affordable Housing Strategy in addition to an implementation plan for recommendations made by the Mayor's Task Force in February of 2002. It was hoped that these strategies and plans would be able to bridge the gap, with an end result being increased housing affordability.

One of the most significant recommendations put forward by the Affordable Housing Strategy was the need to fundamentally support affordable housing. It was believed that a new Official Plan would include policies that supported the direction of the Strategy. In addition, the Affordable Housing Strategy would need to be shored up by subordinate documents such as the land use bylaw. Given that the City of Ottawa was in the process of a Comprehensive Zoning Bylaw review, the Affordable Housing Strategy suggested that "consideration be given to establishing zoning regulations that would better support the development of affordable housing" (City of Ottawa, 2004).

In 2003, City Council adopted Ottawa's Official Plan, *Ottawa 2020*, with a number of changes from past Official Plans to support housing affordability. Since the passing of the Official Plan, a 17 member Affordable Housing Working Group comprised equally of representatives from the development industry and housing groups was established. This Working Group, co-chaired by senior administration, continues to deal with a range of issues related to affordable housing in Ottawa.

The collection of measures arising from the Mayor's Task Force, the Affordable Housing Strategy, and the Affordable Housing Working Group have led to a comprehensive approach to providing affordable housing in Ottawa. Through the collaborative efforts of these groups and individuals, a number of policy changes have been created and implemented in the City of Ottawa, albeit with varying degrees of success. It is these policy measures that are discussed and considered for their transferability to the Calgary and Alberta context for their potential to augment The City of Calgary's current affordable housing strategy.

3.0 City of Ottawa Policies in Support of Affordable Housing

Although Ottawa has been engaged in the provision of affordable housing from a number of complementary angles, for practical necessity these initiatives have been significantly reduced. For example, the emphasis in Ottawa has largely been placed upon the creation of affordable rental housing, in particular an initiative dubbed Action Ottawa (City of Ottawa, 2005a). Although certainly relevant to the discussion of housing affordability, the focus of this paper pertains more to the consideration of land use policy in Ottawa that is relevant to both affordable home ownership and rental housing.

The following sections of this report contain policy considerations that have either been used by the City of Ottawa to help provide affordable housing or, at a minimum, have been considered and are being planned for future use. The policies that are considered relevant to the discussion of housing affordability in Calgary include: land acquisition and dedication, inclusionary zoning, secondary dwelling units, height and density bonusing and incentives, cash-in-lieu of parking, condominium conversion, demolition, down-zoning, and alternate development standards.

3.1 Land Acquisition and Dedication Policy

It is the role of statutory plans to set out the framework for how cities are permitted to grow. Perhaps no policy is more fundamental to the overall affordability of housing, whether it be owned or rental, as is policy respecting a city's ability to accommodate future growth. Since Official Plans are the pre-eminent plans guiding growth and development within the boundaries of any Canadian City, it is fitting that it is here that the discussion around housing affordability shall commence.

Economics and the law of supply and demand are inherent in the discussion of how to accommodate growth. The primary reason for this is the need to ensure competition. In brief, a competitive development environment with adequate lands and multiple developers is significantly more desirable than one where land and developers are constrained. It is with this knowledge of supply and demand that enabling legislation such as the *Provincial Planning Act* (Ontario) and the *Municipal Government Act* (Alberta) have been created. Each of these documents ensures that the Municipality has given adequate consideration to the amount of land that will be required to accommodate future growth while maintaining a healthy development environment.

Of greatest relevance to the City of Ottawa is the *Provincial Policy Statement* (1996), which requires that municipalities maintain “at all times a 10-year supply of land designated and available for new residential development and residential intensification” and specifies that “where new development is to occur, at least a 3-year supply of residential units with servicing capacity [must be available] in draft approved or registered plans” (Province of Ontario, 2005; City of Ottawa, 2004).

In Ottawa, the *Ottawa 2020 Official Plan* sets the stage for the long range provision of land. Of greatest importance is Section 2.2.1 Urban Area Boundary, which represents the area that is already serviced or can be serviced with major roads, transit and piped sewer and water services, outlining the policies surrounding future land supplies in the city. The *Provincial Planning Act of Ontario* ensures that cities designate enough land to meet urban development needs for a period of not less than 20 years. The City of Ottawa (2005b) has decided to meet rather than exceed the Province’s requirements for serviceable lands so Section 2.2.1 – Urban Area Boundary contains policies as follows:

1. Sufficient land will be provided in the urban area to meet the city's 20-year requirement for housing, employment and other purposes.
2. Every five years, the City will undertake a comprehensive review to assess the need to designate additional land to meet its requirements. This assessment will consider such matters as:
 - a. The forecasted demand for land for housing and employment in the 20-year period
 - b. The current supply of developable land within the urban boundary, its distribution within the city, and its potential to be developed for housing, employment and other purposes
 - c. The Provincial requirement to maintain a 10-year supply of land designated and available for residential development and residential intensification and a three-year supply of residential units with servicing capacity in draft-approved or registered plans
 - d. The extent to which the existing land supply can meet the 20-year requirement through reconsideration of permitted land uses, and
 - e. The effectiveness of planning policies designed to create a more compact development pattern.

Thus, the City of Ottawa through Section 2.2.1 of the *Ottawa 2020 Official Plan* has a provision for a 20-year land supply, of which a 10-year supply must be designated and available, and a three-year supply of serviced land must be earmarked in draft approved or registered plans.

Land Dedication in Calgary

In Alberta, the *Municipal Government Act* (MGA) is far less prescriptive than its Ontario counterpart with respect to land dedication. Section 632(3)(i) of the MGA states that a municipal development plan must address “the future land use within the municipality” (Province of Alberta, 2000: 324-325). Thus, the consideration of future supply has been left up to municipalities to consider and negotiate with surrounding municipalities.

Despite enabling legislation requiring a provision for a predetermined number of years, similar to Ontario, municipalities in Alberta have recognized the need to consider land use into the distant future. The consideration of lands to accommodate future growth in Calgary is similar to that of Ottawa, with the *Calgary Plan* being the pre-eminent document governing this as does the *Ottawa 2020 Official Plan*. The City of Calgary has recognized the importance of having an adequate supply of land as part of its efforts in the realm of housing affordability. Specifically, Section 2-2.2.2.1 Residential Land Development outlines the City’s strategy for ensuring adequate competition in the development environment. Section 2-2.2.2.1 of the *Calgary Plan* (City of Calgary, 1998: 41) states that:

Through its strategic planning processes, subsequent annexation applications and intermunicipal planning processes, The City identifies lands to be protected for Calgary’s long-term (30+ years) urban growth and development on a city-wide basis. In the mid-term period (5-15 years), The City identifies lands that are suitable for residential development within city boundaries through local planning processes such as growth area management plans, area structure plans and/or community plans. In the short-term (1-5 years), The City influences the supply of land available for development at any given time through the redesignation and subdivision approval processes and through the provision of necessary infrastructure.

Thus, unlike the City of Ottawa, which considers lands in its urban boundary for a period of 20 years, The City of Calgary ensures a 30-year land supply within its jurisdiction in support of a competitive suburban land market. Additionally, while the City of Ottawa maintains a 10-year supply of dedicated and planned lands, The City of Calgary requires a 15-year land supply with adopted policy plans. Finally, with respect to the most acute of considerations, serviced land supply, while the City of Ottawa provides for a three year supply, The City of Calgary provides for five years.

What this all means is that The City of Calgary appears to be adequately addressing the need to acquire and service lands necessary to support future growth. This is despite the lack of legislation requiring Calgary to do so. It is not known if the impetus for acquisition of lands to meet development needs in Calgary stems from its past as a boomtown. However, from an affordable housing perspective, the City is encouraged to continue with this strategy to ensure a competitive environment and affordability in the long term.

3.2 Inclusionary Zoning

The City of Calgary (2004: 40) states that “inclusionary zoning (or set asides) are either specifically regulated developments (e.g., a municipality prescribes that one of every five units built be affordable) or are negotiated (e.g., all developments must meet the intent of a specific policy). Although it is not prescribed that inclusionary zoning applies only to affordable housing, as it could also pertain to some additional component desired by the community, the use of inclusionary zoning for the purposes of this report refers only to affordable housing.

Clearly, one of the greatest strengths of inclusionary zoning is that regulations provide a municipality (or a land use approval authority) with a mechanism to ensure that affordable housing is provided as a condition of approval on all new development. An additional benefit to the use of inclusionary zoning is that it allows municipalities to ensure the provision of new affordable market housing with minimal cost to the city so long as a housing market exists. Thus, the effectiveness of inclusionary zoning is highly contextual and time dependent.

Until 1996, there was a clear mandate on the part of the Ontario Provincial Government with respect to affordable housing requirements in new developments. The *1989 Provincial Policy Statement* encouraged all municipalities to create legislation ensuring that at a minimum, 25 percent of the units created through either new development or intensification were affordable (City of Ottawa, 2004). In 1996, a new *Provincial Policy Statement* under Section 3 of the *Ontario Planning Act* led to the removal of the 25 percent minimum for affordable housing. As a result of this change, there is no directive from the Province to ensure that any fixed proportion of units created is affordable.

Despite the fact that the Province no longer legislates a minimum requirement of new affordable housing units, it has enabled the cities to do so. Given the status of cities as “creatures of the Province,” the ability to impose inclusionary zoning on the development industry must be permitted, or at least not prevented, by the enabling legislation. Current provincial policy in Ontario clearly establishes that the onus to develop policies that will result in affordable housing rests with each individual city. Inclusionary zoning is therefore one tool that, while not provided, has neither been prevented by Ontario’s enabling legislation.

As a result, the City of Ottawa has elected to affirm this right through Official Plan policy. Specifically, Policy 2.5.2.2 – Affordable Housing in the *Ottawa 2020 Official Plan* ensures that a portion of all new development projects will add value to the City's affordable housing stock through a framework that has been constructed for maximum flexibility. Policy 2.5.2.2 (City of Ottawa, 2005c) reads as follows:

A target of 25 per cent of the total new units in all development projects will be affordable housing, of which 15 percent will be targeted to households up to the 30th income percentile and the remainder of the 25 percent will be targeted to households up to the 40th income percentile. Recognizing that the 15 percent target may create challenges for some developments, the City will consider alternative means to ensure that the target is met. For example:

- a. Density bonusing could allow for certain areas of the development to provide housing in a more dense and therefore less expensive form
- b. A developer may opt to meet the requirement on alternative sites where that may be appropriate and the housing will be made available within a similar timeframe, or
- c. The developer may contribute sufficient land to the City, which will permit the City to find alternative ways to meet the 25 per cent requirement.

Noting that it may be difficult to provide affordable housing in all new developments and that affordable housing will not be appropriate for all developments, the City of Ottawa has built in flexibilities to deal with these problems. A possible concern with this system of ensuring that affordable housing results from all new development projects occurs with respect to equity. For instance, a small, land poor developer will have a much more difficult time in providing alternate lands to the City that would be appropriate for affordable housing than would a larger, land rich developer.

Inclusionary Zoning in Calgary

The ability to implement inclusionary zoning policies in Calgary – or any Alberta jurisdiction – is currently not available. The primary reason for this is that “in Alberta, there is no legislative authority for municipalities to require that a developer provide contributions toward affordable housing” (City of Calgary, 2004: 40). Thus, to emulate Ottawa's approach to inclusionary zoning, an amendment to the *Municipal Government Act* would be required. Attempting to require inclusionary zoning under the current *Act* could expose The City to legal challenge. For Calgary to move ahead with inclusionary zoning that could emulate what is possible in other jurisdictions such as Ottawa, two changes to Alberta's *Municipal Government Act* would be required (City of Calgary, 2004: 5):

1. Recognition of affordable housing as a planning objective, and
2. An ability for land use planning to regulate the user as well as the use.

Despite the legal hurdle that presently exists, there has been recognition in recent times that a move toward inclusionary zoning in one form or another is important. The *Sustainable Suburbs Study* (City of Calgary, 1995: 48) provides a good example of this when it states:

Policies and guidelines ensuring that an adequate choice of low to medium income housing is provided in suburban communities shall be developed as part of a new comprehensive city-wide package on affordable housing. Developers are encouraged to target a minimum of approximately 10 percent of all dwelling units ... in a community at households earning no more than the median household income.

One possibility that has been identified by The City of Calgary has to do with the disposition of City-owned land. The requirements for properties obtained by The City through Corporate Properties and Buildings may include similar requirements to the City of Ottawa's for purchasers of municipally owned land. The ability to do so would be facilitated through contractual arrangements, preferably through negotiations with the prospective purchaser or developer.

A second opportunity that The City of Calgary has debated is the ability to use Area Structure Plans or Area Redevelopment Plans to pursue affordable housing indirectly through the provision of different types of housing and the inclusion of multifamily units in new developments. An example that has been put forth is to "increase the minimum density requirements or to require a certain percentage of multifamily units to be provided within the plan area" (City of Calgary, 2004: 40). These examples will have some of the same effects as inclusionary zoning and, most importantly, The City does have the authority to require this of developers.

In addition to The City's inability to use a tool such as inclusionary zoning on all new development projects similar to Ottawa for legislative reasons, it is unclear how viable this option would be in Calgary's development environment. Additionally, using inclusionary zoning is highly market dependent, which although good now, may not be as reliable or sustainable in the long term.

3.3 Secondary Dwelling Units

One policy decision that has potential but has not been fully implemented in many Canadian cities is the permission, as-of-right, for secondary suites in single and semi-detached homes. The *Action Plan for Affordable Housing* in Ottawa appears to have been a primary catalyst in the provision of secondary suites. In the *Creating a Legacy* report, it was recommended that as an opportunity to encourage adaptive use of existing stock, the City of Ottawa (2005a) should:

1. Amend all zoning bylaws to permit secondary suites, as-of-right, in single and semi-detached houses throughout the City, and

2. Devise a promotion/incentive/education/campaign to attract home owners to the prospect of secondary suites, intensification and affordable housing in neighbourhoods, and implement a pilot program, including the use of incentive grants to partially offset the cost of adding a suite.

To date, in the *Ottawa 2020 Official Plan*, Policies 2.5.2.10 and 3.1.1 have been created and amended to deliver on the need for secondary rental housing, especially for students and lower income households. Policy 2.5.2.10 (Affordable Housing) states that “secondary dwelling units in both detached and semi-detached dwellings are permitted in all parts of the city in accordance with Section 3.1” (City of Ottawa, 2005c). Section 3.1 of the Official Plan deals with Generally Permitted Uses and reads as follows (City of Ottawa, 2005d):

Certain land uses are considered to be characteristic and supportive of the daily life and functioning of the community. For convenience, these uses have been grouped as generally permitted uses. These uses will be permitted within all land-use designations, subject to the policies set out below and in other applicable sections of this plan.

In support of Generally Permitted Uses, Policy 3.1(1) deals specifically with Secondary Dwelling Units (City of Ottawa, 2005d) and states:

Where the zoning bylaw permits a detached or semi-detached dwelling, a secondary dwelling unit within these dwellings will also be permitted. Standards may be established in the zoning bylaw to govern compatibility within the main dwelling and surrounding land uses. Where a secondary dwelling unit is to be located above a detached garage, an amendment to the zoning bylaw will be required.

The City’s Official Plan is instrumental in the provision of secondary suites in detached or semi-detached dwelling units, although City staff created an additional Official Plan amendment respecting secondary units. Affordable Housing Official Plan Amendment (OPA 10) of June 2004 extends the opportunity to create secondary suites as-of-right to duplex dwellings in addition to detached and semi-detached dwellings across the City of Ottawa (City of Ottawa, 2005e). The amendment does, however, restrict secondary suites to one-half of the primary dwelling unit. The amendment permits the addition of one new secondary suite to each duplex building. This amendment is thought to provide densities similar to those generated by a secondary dwelling unit of a semi-detached dwelling which is already permitted in the Official Plan.

By allowing for secondary suites in all detached, semi-detached and duplex dwellings across Ottawa, an excellent response by home owners is expected. In fact, the City projects that by the year 2021, approximately 3.6 per cent of Ottawa’s 262,000 dwelling units will contain secondary dwelling units (City of Ottawa, 2005f).

While it is anticipated that few secondary suites will be added as a result of new construction in fringe areas, it is believed that many will be added through the conversion of existing stock, likely located near amenities and conveniences including close proximity to transit as required by citizens in need of affordable housing.

The City of Ottawa is currently undertaking amendments to make zoning bylaws consistent with the Official Plan policies and has undertaken public consultation to establish new parking and building requirements for secondary dwelling units. The latest provisions suggest that “where a secondary dwelling unit will be created as part of new construction of a detached, semi-detached or duplex dwelling, the building permit process will deal with the entire development, including the creation of the secondary dwelling unit” (City of Ottawa, 2005f). Alternately, where secondary units are added to existing housing stock, a building permit will be required (City of Ottawa, 2005f) so that:

Any new construction through addition, or through the enlargement of any window, addition of a new exterior door, or new internal shared entrance occurs. In some cases, where a basement apartment might be created, perhaps only a plumbing permit would be required. In rare circumstances, if no plumbing, access or construction is undertaken, a secondary dwelling unit could be added without a building permit.

The bylaw proposal also allows for the conversion of an attached garage into a secondary dwelling unit. These policy decisions illustrate Ottawa’s commitment to encouraging intensification in built-up areas. Further, the City of Ottawa is looking at the possibility of developing an incentive program that encourages home owners to add secondary suites to their primary dwellings. This is consistent with recommendations made in the City’s *Creating a Legacy* report. Details of the City of Ottawa’s proposed zoning regulations and the definitions that are being considered for adoption in Ottawa are presented in Appendix A.

Secondary Dwelling Units in Calgary

It is important to note that The City of Calgary is currently undergoing a comprehensive multiyear review of its existing Land Use Bylaw, LUB 2P80. Given that this document was written and adopted 25 years ago, it is believed that there is much updating that is required to reflect current and emerging housing trends. Further, the Land Use Bylaw review will address housing types that do not currently have a standard definition. Accessory or secondary dwelling units are one example of this (City of Calgary, 2004: 25). Accessory dwelling units are described as “independent dwelling[s] with kitchen, bathroom, and sleeping areas. The area is considered accessory to the principle single family residential use of the site” (City of Calgary, 2004: 34).

In Alberta, the Provincial government is currently reviewing its definition of secondary dwelling units, which will be reflected in both the Alberta Building Code and the Alberta Fire Code. Unfortunately, the Province is only giving consideration to secondary dwelling units with respect to single-family dwellings.

This narrow consideration of dwelling type will result in a significant housing component that could be converted to secondary dwelling units being overlooked and undeveloped as affordable housing. Further, proposed changes to Provincial legislation may necessitate amendments to the City's Land Use Bylaw. Although these documents are independent of one another, consistency between them with respect to definitions and requirements would almost certainly be beneficial. Adoption of a new Land Use Bylaw is scheduled for some time in 2006.

Research that has been documented by The City of Calgary suggests many benefits that may be realized from legalizing secondary suites. These benefits include their affordability – rental rates are often lower than average market rents; the target population is often younger, less affluent, and more likely to be single individuals or lone parents; suites can provide shelter for in-home caregivers; parking standards could be reduced as tenants often have fewer vehicles when compared with the general population; and suites have an ability to act as a mortgage helper (City of Calgary, 2004: 34). The final point with respect to mortgage assistance is important in that the benefit is two-fold. A prospective homebuyer who would not previously have been able to engage in home ownership may now be able, and a new affordable rental suite has been created for the rental market.

The primary gap currently affecting implementation of secondary suites appears to be the treatment of these units under the Alberta Building Code. Currently, secondary suites are treated the same as duplexes or semi-detached dwellings, thus requiring separate heating, water tanks, and fire separation, among other heightened standards. These requirements are often unreasonable and effectively prevent the addition of legal secondary suites in Calgary.

A further problem has to do with secondary suites as a permitted use in the current Land Use Bylaw. Currently, accessory dwelling units are accommodated only in land use districts under direct control, and secondary suites are limited to duplexes and semi-detached units as discretionary uses in other districts (City of Calgary, 2004: 35). A narrow definition will lead to incremental change only, and thus not realize the true value that is available in existing housing stock in developed and future communities.

The City could consider designating accessory and secondary dwelling units as permitted uses in many, if not all, residential districts. Secondary suites should also be accommodated citywide rather than in pockets in the inner city only. Further, secondary suites should be accommodated in an array of housing types (single family, multifamily, and duplexes) rather than limiting them, for example, only to single family units. Doing this would have an added benefit of legalizing hundreds, if not thousands, of existing secondary suites in the City.

Having cited the numerous benefits of legalizing secondary suites, it is also important to note unintended negative results may also result from this policy change. As an example, it is entirely plausible that affordability could be compromised as landlords are forced to incur construction costs to have currently non-legal, but affordable units brought up to code requirements. There is little doubt that these costs will be borne by tenants in the short and long term through rent increases. As a result, it is suggested that prior to legalizing existing secondary suites, the City will need to carefully consider both intended and unintended consequences and undertake mitigation efforts to ensure that the maximum benefit for affordability can be obtained.

3.4 Density Bonusing and Incentives

The City of Ottawa has previously explored opportunities to provide affordable housing through density bonusing, or what Ottawa now refers to as “density incentives.” It has been suggested that the term density bonusing carries negative connotations and the City does not wish to perpetuate these impressions. By replacing density bonusing with density incentives, the City hopes to underscore the benefits of increasing height and density in both new and existing communities. The City’s change in terminology is also motivated by a hope that incentives will be more readily embraced by the development community, which is instrumental in the establishment of affordable housing stock in the City of Ottawa.

Section 2.5.2 of the *Ottawa 2020* Official Plan has defined the City’s priorities and goals with respect to affordable housing. Policy 2(a) states that “density bonusing could allow for certain areas of the development to provide housing in a more dense and therefore less expensive form.” This is just one way the City can ensure that 25 percent of new housing starts are affordable in nature and consistent with the City’s targets (City of Ottawa, 2003).

The ability to provide additional height and density in established communities can only be facilitated with adequate enabling legislation. In Ontario, this legislation is guided most specifically by *R.S.O. 1990 (P.13)(S.37)*, which is Ontario’s *Planning Act* under the *Municipal Government Act*. Section 37 and subsections 1 through 4 deal specifically with density increases through bylaw (Government of Ontario, 2005b):

The council of a local municipality may, in a bylaw passed under section 34, authorize increases in the height and density of development otherwise permitted by the bylaw that will be permitted in return for the provision of such facilities, services or matters as are set out in the bylaw.

Section 34(1) outlines the use of zoning bylaws passed by the councils of local municipalities, while Section 34(3) deals with minimum area and density provisions.

Section 34(6.3) states that (Province of Ontario, 2005b):

The authority to regulate provided in paragraph 4 of subsection (1) includes and, despite the decision of any court, shall be deemed always to have included the authority to regulate the minimum area of the parcel of land mentioned therein and to regulate the density of development in the municipality or in the area or areas defined in the bylaw.

Further to Section 37(1), the province has ensured that a bylaw providing for additional height and density will not be allowed unless a local municipality has directly dealt with the provisions relating to the authorization of additional height and density through their Official Plan. Section 37(3) of the *Planning Act* (Province of Ontario, 2005b) notes that:

Where an owner of land elects to provide facilities, services or matters in return for an increase in the height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services or matters.

Finally, with respect to registration of the agreement permitting increased height and density under subsection 4, the municipality must enforce the provisions against the owner and all subsequent owners of the land with the agreement registered against the land(s) in question.

The local municipality can consider Official Plan amendments at the site, local, or citywide levels and community benefits can be secured through an agreement that may be registered on title. It has been suggested that for cities in the Province of Ontario, “the continued use of Section 37 is important ... as a proactive and flexible legislative tool for helping to achieve services and facilities which enhance the liveability and economic competitiveness of our communities”. Langdon (2001: 1-2) also notes that “its continued use must balance the interests of the City with those of the development community fairly, effectively and efficiently.”¹

Toronto is a city that has used Section 37 provisions more extensively than Ottawa and whose experience has been used to inform Ottawa’s consideration of height and density bonusing. Toronto’s proposed policy direction is that Section 37 community benefits should be specific capital facilities and be provided locally to benefit the community where the development is located (Langdon, 2001). This is to be facilitated through a two-pronged approach. First, the Official Plan would be limited to general policy and a broad list of possible community benefits could be applied citywide. The developer and the City would be obligated to mutually agree upon these benefits at a later date. The Official Plan would inform the type of community benefits as well as the expected height or density increases.

¹ When it comes to Section 37 of the *Ontario Planning Act* and the provision of local community benefits to offset additional height and density in communities, Toronto senior planner Peter Langdon has emerged as an expert. He can be contacted at the City of Toronto, Policy and Research, City Planning Division: Tel: (416) 392-7617; Fax: (416) 397-4080; E-mail: plangdon@city.toronto.on.ca.

Second, Section 37 can be used in defined areas of the City. More specific relationships between overall density or height increases and the overall increase of community benefits could be created and would be tailored to the specific planning objectives of the defined area. Decisions rendered by the Ontario Municipal Board and Divisional Court have ensured that the specific community benefits must remain local. These precedents are an important aspect of density bonusing and incentives, which will be discussed later in this report, and should be considered by The City of Calgary.

One of the most important issues being discussed in Ontario with respect to Section 37 is related to the determination of the level of community benefits that should be required of developers. In Toronto, alternatives have ranged from a fixed percentage of increased land value resulting from the density or height increase, to a fixed relationship between increments of density or height, to increments or units of community benefit. Further, the option of a “no-quantum” approach in which the level of community benefits for each application is the result of negotiation was raised (Langdon, 2001: 3).

In Ottawa, although they have yet to fully execute a height and density increase as provisioned for by Section 37, much discussion has surrounded this issue in past years. The City’s new Official Plan has been amended to deal with Section 37 requirements as set forth in the *Ontario Planning Act*. The *Ottawa 2020 Official Plan*, Section 5.2.1.6 Increase in Height and Density Bylaw (City of Ottawa, 2005g) now reads:

Pursuant to Section 37 of the *Planning Act*, the City may authorize increases in the height and density of development above the levels otherwise permitted by the zoning bylaw. Public consultation will be included in the development and approval of such a bylaw. Limited increases will be permitted in return for the provision of such facilities, services or matters as are set out in the bylaw. Such provisions that may be authorized include, but are not limited to:

- a. Public cultural facilities
- b. Building design and public art
- c. Conservation of heritage resources
- d. Conservation/replacement of rental housing
- e. Provision of new affordable housing units
- f. Child care facilities
- g. Improvements to rapid-transit station
- h. Other local improvements identified in community design plans, community improvement plans, capital budgets, or other implementation plans or studies, and
- i. Artist live-work studios.

Ottawa has enacted a guiding policy similar to Toronto's Official Plan including a broad list of possible community benefits that could be required with increases in height and density. Section 5.2.1.6, items (d) and (e), are clearly of greatest significance to the affordable housing cause in the Calgary context and will be elaborated on below. The City has also allowed for considerable latitude by creating the ability to expand the list.

Density Bonusing Guidelines

City of Ottawa planning department staff has met with the Building Owners and Managers Association and the Homebuilders Association to consider guidelines for Ottawa. These consultations have resulted in a total of 13 guidelines to date. The guidelines have been drafted with the intention of informing the use of Section 37 in the City of Ottawa. Guidelines were in draft form at the time of this writing and have not been made available beyond personal communications.

Planning staff is, however, close to beginning public consultation for these guidelines prior to their presentation to City Council for approval. Some of the guidelines assist with the implementation of density incentives through the use of Section 5.2.1.6 of Ottawa's Official Plan. These guidelines may be useful in informing density bonusing in The City of Calgary and will be discussed in the following section. They are intended to provide insight into the use of density incentives and are not intended to limit the possibilities of providing incentives for increased height and density.

As a starting point, the guidelines have suggested that the use of density incentives in Ottawa will generally be focused on "those areas identified in the new Official Plan or Community Design Plan for intensification" (Wilder, 2005). Community Design Plans are equivalent to Area Structure Plans or Area Redevelopment Plans in The City of Calgary. In addition to having a Community Design Plan in place, the guidelines note that Council must still support the proposal and that the proposal must display good planning principles to obtain density incentives. Sites that can support high density and are consistent with the Official Plan and the City's strategic directions will be eligible for density incentives. The City has identified some of the strategic areas where it is in Ottawa's best interest to ensure the area's preservation for affordable rental housing, heritage buildings, and valued green space.

The City of Ottawa appears to be prepared to invoke their ability to add increased height and density only on projects in which are of a significant size, where the overall project exceeds 5,000 square metres (50,000 square feet) or 50 residential units. Further, Section 5.2.1.6 will only be used when the proposed density increase exceeds 20 percent of the gross floor area or 10 residential units. The City is also entertaining additional recommendations to ensure that Section 37 incentives are applied to projects of significant scale.

To obtain density incentives, the City of Ottawa requires an amendment to the existing zoning bylaw; however, a zoning bylaw amendment will not be considered until an agreement can be reached between the City and the proponent developer. The agreement is structured to specifically identify and outline the expected community benefits. City of Ottawa guidelines suggest that these benefits shall include, but are not limited to, the following: affordable housing including land or cash, conservation of green space and heritage resources, contributions to Ottawa's public transit, and community facilities. The benefits that the City could obtain would be established through negotiations with the proponent.

Once the community benefits have been secured, whether land, cash or otherwise, the proponent is also required to describe how they intend to convey these benefits. When the public benefit is in the form of cash, the guidelines have suggested that the full payment of benefits must occur prior to the issuance of a building permit, unless it is a phased development. In this scenario, the City's cash payments may be phased in accordance with the project. Details of these payments are to be outlined in the agreement.

Alternatively, when the public benefit is to be a facility, such as a daycare or affordable housing for example, negotiations between the applicant and the City would determine what commitments would be required of the proponent. When considering affordable housing units for example, negotiations would determine how the proponent would provide for and ensure the operation of the affordable housing over a period of time. Consistent with other City of Ottawa affordable housing policies, this duration would likely be for a minimum of 20 years.

Finally, once both parties have confirmed all of the community benefits, the new agreement will be formalized through a registration on title. The guidelines require that all community benefits provided as part of this agreement are in addition to those facilities and services that would be required as part of the City's standard development approval process. The written agreements and covenants to be registered on title would include details of how the applicant would ensure the operation and maintenance of facilities over the negotiated time period.

As mentioned previously, The City of Calgary may be primarily interested in how Ottawa ensures that any community bonuses remain local. Unfortunately, guidelines for density incentives in the City of Ottawa may not, at least in their present form, lend a great deal of insight into how this is to be managed. The guidelines state "the amenity provided in exchange for the density incentives will benefit the community where the development project is located" (Wilder, 2005). Given the challenges to Section 37 to date, Ontario municipalities such as the City of Ottawa may be prepared to let the apparent inconsistency in interpretation be dealt with through the Ontario Municipal Board on a case-by-case basis.

The City of Ottawa has decided to quantify benefits as a percentage of the net increase in the subject parcel's land value. In the interim, staff at the City has proposed that "the value of public benefits be set at 50 percent (Wilder, 2005). What this means to the City, local community, and developers is that negotiations will ensure a contribution of community benefits equal to or greater than 50 per cent of the net value increase that results from an increase in height or density. Therefore, if a parcel increases in value by \$1 million, the City will require a minimum contribution of \$500,000 towards specified community benefits.

The City of Ottawa reviewed density bonusing in Toronto when setting this target. Although some Councillors in Toronto pushed for 100 percent of the net value increase to be returned to the local community, City of Ottawa staff does not think it is appropriate in their housing market to go beyond 50 percent. Discussion with the development industry appears to confirm this belief. To support density bonusing policy, Ottawa homebuilders suggested that they would be in favour of the City's 50 percent formula to calculate community benefits.

To achieve this, it will be necessary to establish the increased value of the subject land. After first consulting with the developer, the City of Ottawa will choose a professional appraiser from a list of qualified candidates. The developer will be required to cover the cost of the valuation and payment must be received prior to the appraisal being conducted. Finally, the Real Property and Asset Management Branch at the City of Ottawa will review the results of the appraisal with the developer to ensure that it is agreeable to both parties.

The City does, however, understand that not all parcels are equal and some exceptions to the 50 percent rule may be necessary. Staff at the City has suggested that one such exception to this rule is the redevelopment of brownfield sites to non-industrial uses. In this scenario, the formula outlined will be disregarded, and the City will instead ensure that public benefits that are essential to the overall redevelopment are provided. Other exceptions include developments that preserve existing affordable housing stock, heritage buildings or structures, and valued green space. Further, although the current formula uses a 50 percent return based on increased value, City of Ottawa staff has noted that a fair rate of exchange for additional height and density may not be best facilitated through this formula. It is noted that City staff continue to search for the most equitable means of facilitating this exchange.

Finally, the City of Ottawa has shown its commitment to affordable housing by exempting not-for-profit agencies from the community benefits requirement. As a result, density incentives will be provided or at least considered for non-profit housing developments that have made no provision for a receipt of community benefits (apart from the affordable housing itself). It is not known how this will hold up in a legal setting. Despite who the affordable housing provider may be, an increase in height and density will have an impact on current residents. Therefore, it is suggested that a city willing to invoke height and density incentives must remain committed to ensuring local public benefits on all projects.

City of Ottawa staff has suggested that structuring agreements that will ensure community benefits in return for increased height or density will be completed on a case-by-case basis. Although the minimum return may be similar (i.e., 50 percent of increased value), the terms of how a community benefit is to be provided, operated, or maintained may vary considerably from project to project. It is acknowledged that Ottawa's guidelines to assist in the implementation of density incentives are not tried, tested and true. For this reason, additional information and updates may be required.²

Density Bonusing in Calgary

Although The City of Calgary is able to use density bonusing to achieve a variety of land use planning objectives, the reality at present is that bonusing remains voluntary as opposed to a requirement which the city has powers to govern. One of the primary hurdles facing planners with respect to density bonusing is much the same as that which restricts the practice of inclusionary zoning: the *Municipal Government Act* in its current state does not identify affordable housing as a planning objective. Density bonusing would also benefit from the added ability of land use planning and planners to regulate not only the use, but also the user (City of Calgary, 2004: 5).

Further, there appears to be concern with respect to how the development industry in Calgary may perceive these attempts to ensure affordable housing is provided when creating new housing stock (City of Calgary, 2004: 39). A couple of the more significant perceptions that would need to be overcome pertain to the fact that density bonusing can be excessively discretionary and that some may believe that developable lands are artificially "under zoned" and thus community benefits in exchange for additional height or density are not warranted.

Although the aforementioned concerns will need to be dealt with by planning staff, they should not preclude the future use of density bonusing for affordable housing in Calgary. Indeed, a workshop held with managers in Planning and Development Approvals at The City of Calgary gave support to further investigation of bonusing (City of Calgary, 2004: 46).

An Ontario Density Bonusing Precedent

When it comes to planning law in Canada, there is perhaps no greater value than legal precedent. The following case is meant to provide a greater understanding of how density bonusing has been provided for, and how a quasi-judicial body such as the Ontario Municipal Board sees challenges respecting this controversial policy decision. The case was heard by the Ontario Municipal Board and is regarded by planners in Ontario as precedent setting with respect to Section 37. This case, which has been summarized below, can be used by The City of Calgary to determine its ability to impose local public benefits on developers in return for increased height or density.

² For further information on Ottawa's density incentives, it is suggested that individuals contact Mr. Stanley Wilder, Planning and Growth Management Department, City of Ottawa, 4th Floor, 110 Laurier Avenue West, Ottawa, Ontario K1P 1J1; Tel. (613) 580-2424, ext: 13116; Fax: (613) 580-2459.

The Yonge–St. Claire Decision

A case heard by the Ontario Municipal Board (OMB Decision/Order No: 1228, September 16, 2003) involved the proponent 1430 Yonge St. Claire Inc., who was proposing a 16-storey building on Yonge Street in Toronto with a maximum height of 46 meters and a floor to area ratio of 4.75. The existing zoning provided for a maximum height of 30 meters and a floor to area ratio of 4.75. Although the proponent brought the case before the Ontario Municipal Board on three separate but related complaints, the relevant issue was the developer's unwillingness to consent to bonus public amenities required by the City.

The question before the Board was not whether this proposal was consistent with the current policy environment of intensification, but rather one of compensating residents for the social costs of added density. The proponent argued that the City of Toronto's requirements for cash payments to make public amenity improvements in the area were not warranted by the additional density and that the spaces "will be little used by the residents of the building" (Krushelnicki, 2003: 7).

The City argued that Section 16.21 of the Official Plan provides for this request for compensation and allows the City to (Krushelnicki, 2003: 7):

Enter into legal agreements (under section 37) in order to secure the positive features of the development proposal, including as appropriate, but not limited to, the realization of the objectives of this Plan respecting social housing, non-profit community, cultural and institutional facilities, heritage preservation and parks.

In its ruling, the Ontario Municipal Board found that the negotiation for public amenities is the "legal extension of an age old practice. Seen in this light, the benefit need not be related to the project or caused by it" (Krushelnicki, 2003: 8). The Board held that the City can require cash in exchange for height and density bonuses and held that this amount be directly related to the increase in market value obtained through the policy amendment permitting it.

This case is significant with respect to height and density bonusing. The Board's assertion that the benefit requested of the proponent *need not be directly related to the project or its residents* is a valuable reference point. Further, the Board upheld that the amount of public amenity requested by the City can and should be directly tied to the increase in land value resulting from the additional height or density granted.

3.5 Cash-in-Lieu of Parking

With respect to affordable housing, the majority of housing projects provide on-site parking to a lesser extent than is presently required by the zoning bylaw. Occupants of affordable housing projects typically have fewer vehicles and use alternate forms of transportation in greater numbers when compared with residents not taking advantage of affordable housing programs.

Ottawa has been able to establish a cash-in-lieu provision that allows affordable housing providers to create less parking than the City bylaw requires. Staff note that non-profit and co-op housing projects generally succeed in the applications for cash-in-lieu. To facilitate this, applicants are required to apply for a reduction in the number of parking spaces through the cash-in-lieu application.

The City of Ottawa has long had a process by which to deal with fee reductions for reduced parking; however, proponents previously had to make a planning argument for a reduction in parking spaces. Now, however, in conjunction with the cash-in-lieu bylaw, the Manager of Planning Applications has been delegated the authority to lower fees for non-profit and co-op housing providers to as little as \$1. This policy creates an additional incentive for developers and a process that is more streamlined since approval is no longer required by the Committee of Adjustment at the City of Ottawa.

At present, funds collected from the cash-in-lieu bylaw go to a parking development fund that is used to develop municipal parking facilities and establish metering in areas where parking is required. There is currently no mechanism to ensure that the contributions to the parking development fund remain in the local area.

This bylaw is consistent with Ottawa's program and appears to be both logical and beneficial. In addition to providing a financial incentive for developers who no longer need to provide costly surface parking, developers are now able to achieve higher densities that would further reduce per-unit land costs. The ability of the Manager of Planning Applications to approve cash-in-lieu for affordable housing provides greater certainty for housing providers making application for this incentive.

Cash-in-Lieu of Parking in Calgary

In the *Calgary Plan*, policy 2-2.3.2 Access to Housing acknowledges that the lower the numbers of parking spaces required, the lower the cost of development. As a result, a proponent developing the same parcel would be able to build more units and reduce the cost per unit (City of Calgary, 2005a: 23). Further, The City of Calgary has recently undertaken a Land Use Bylaw parking strategy acknowledging that the current Bylaw requirements with respect to parking are outdated and in need of significant change to meet Calgary's contemporary demands.

It is readily apparent that the adoption of a parking strategy in Calgary in the past has been done to meet a number of demands; however, the provision of affordable housing is not among them. Unfortunately there is nothing in the proposed revisions to the parking strategy, and the cash-in-lieu component to suggest that affordable housing has been a consideration in this revision. Although the strategy recognizes a number of benefits that will be noted by commercial and office tenants through the revision of the parking strategy, affordable housing is thus far absent from this document. It is therefore suggested that policy planners in the social research unit work with planners assigned to review the parking strategy to determine possible reductions that could assist affordable housing developers and The City of Calgary meet current demands.

It is important to note that the review has recommended in favour of reducing the existing cash-in-lieu from its current level of \$18,400 to an amount not less than \$12,000, but has not done so for affordability reasons (City of Calgary, 2005b: 18). If this policy and reduction of cash-in-lieu was applicable to residential developers, it is evident that the cost of developing residential units in Calgary could benefit by as much as \$6,400. Taken further, however, if The City of Calgary were to consider a cash-in-lieu policy that was targeted at affordable housing similar to that in the City of Ottawa, which resulted in a cash-in-lieu agreement for a nominal \$1 fee, the cost of providing affordable housing could benefit a further \$12,000 or essentially the full \$18,400 per stall currently required of developers.

It is therefore suggested that the parking strategy could potentially be used as a tool to explore the impact and potential mitigation of charges arising out of deferring these fees related to affordable housing. As always, a concern that will need to be addressed is ensuring that the savings to developers with respect to cash-in-lieu will be passed on to the renters or buyers of these homes. Further to this is the need to ensure that the savings and affordability remain for a prolonged period of time.

3.6 Condominium Conversion

In addition to providing new affordable rental housing, the City of Ottawa has recognized the importance of protecting the existing rental housing supply. Official Plan Section 4.5 and its corresponding policies have been created to “maintain existing housing stock in the city” (City of Ottawa, 2005h). This is facilitated through Official Plan Policy 4.5.1, which limits the number of rental units that can be converted to an ownership format when vacancy rates are low, as is currently the case. This policy was also created with a goal of protecting housing stock that is currently renting at below average market rents. Policy 4.5.1 reads (City of Ottawa, 2005h):

The conversion of rental housing with five or more rental units to condominium ownership or to freehold ownership as a result of applications such as, but not limited to, applications for severance of properties, is premature and not in the public interest unless the following two criteria are satisfied:

- a. The rental vacancy rate by dwelling/structure type for the City of Ottawa as defined and reported yearly through the Canada Mortgage and Housing Corporation (CMHC) Rental Housing Market Survey has been at or above 3 percent for the preceding two-year reporting period, and
- b. The existing market rents of the units proposed for conversion are at or above the average market rent levels for the corresponding CMHC survey zone in the City of Ottawa, as reported yearly by the CMHC Survey for rental units of a similar dwelling/structure and bedroom type.

Condominium Conversion in Calgary

In Calgary, condominium conversion refers to the transformation of rental multifamily buildings that are part of the formal rental housing market to condominiums and then offered for individual sale, usually at market price (City of Calgary, 2005c: 9). Again, it is Provincial legislation that primarily governs The City's ability to create bylaws, in this case preventing the loss of existing affordable housing stock. Under the *Alberta Condominium Property Act*, municipalities are not delegated the authority restricting the conversion of rental housing stock built after 1966 (City of Calgary, 2004: 38).

Although there is considerable debate on the effectiveness of restricting this transition in existing stock, there appears to be some evidence supporting the proposition that condominium conversions can become affordable home ownership options and, at times, re-enter the rental market. Opponents of constraints suggest that this practice is highly interventionist and would likely receive significant opposition from landowners. Further, it has been suggested that this tactic would run counter to other planning objectives, such as promoting affordable home ownership (City of Calgary, 2004: 38).

As a result, it is suggested that The City of Calgary consider what the City of Ottawa has done with respect to condominium conversion and the pursuit of the public interest. Of note is the restriction on conversion of rental housing when rental vacancy rates are very low (i.e., less than three percent) and on units that are presently renting at rates lower than the average market rent. These policies could be beneficial in guiding conversion in Calgary while helping to balance the needs for affordable rental housing.

It is, however, recognized that adopting such policy may be largely incremental in practice given the ability to govern conversion of pre-1966 condominiums only. As a result, The City may wish to consider the changes necessary to govern all condominium conversion regardless of age. Arising from this or any change to condominium conversion policy, The City will likely be torn between potentially conflicting desires to meet Calgary's needs for affordable rental housing while concurrently promoting affordable home ownership.

3.7 Demolition Policy

Demolition and replacement policies have been used to varying degrees of success by many cities interested in protecting existing affordable housing, especially in areas undergoing intensive redevelopment or gentrification. What each of these policies has in common is that where possible, the municipality attempts to recover affordable housing stock that is being lost as a result of redevelopment or demolition (City of Calgary, 2004: 42).

The City of Ottawa has endeavored to protect existing stock through the use of policy preventing demolition without replacement. Specifically, Policy 4.5.5 of the *Ottawa 2020 Official Plan* mandates the City to deny applications to remove existing rental stock where new housing units are not to be provided.

Policy 4.5.5 states that “applications for demolition of housing units will not be supported unless replacement units are provided” (City of Ottawa, 2005h). It has been noted that in the case of condominium conversions, appeal courts have reaffirmed the City’s ability to protect the rental housing supply through this policy. The premiere benefit of such policy is that it is one of the few policies that specifically address the need to protect existing affordable rental stock from area redevelopment. Further, it protects units and their inhabitants against gentrification and displacement in inner city neighbourhoods.

Demolition Policy in Calgary

In the same way that condominium conversion is quite limited in Calgary context, such is the case with respect to policy preventing the demolition of affordable housing. At present, enabling legislation in Alberta does not provide a mechanism for municipalities to intervene into the market to prevent the demolition of affordable housing. Given this current inability, it is suggested that City of Calgary consider working with the Alberta Government to consider permitting municipalities to restrict this practice.

Two options generally exist with respect to demolition policy. First, the developer could be required to provide new affordable housing as a condition of being permitted to demolish or renovate the existing housing stock, similar to what is required in Ottawa. Alternatively, where developers are unwilling to provide affordable housing as part of their proposed projects, a levy or cash-in-lieu requirement could be created. This policy would ensure that cash received from the developer could be used by the City to create affordable housing on other sites, preferably in the same area as the stock being lost.

3.8 Down-Zoning

The practice of down-zoning is another policy consideration that has been addressed through the City of Ottawa’s Official Plan. Official Plan Policies 2.2.3(6), (7) and (8) have been structured to eliminate the down-zoning of residential land and simultaneously curtail the loss of affordable rental housing. The desired effect of this policy has been to ensure that there is no net loss of apartment potential or unit yield potential for multiple housing types. The policy ensures that redevelopment of land does not result in low-density infill housing. In addition to the Official Plan policy, this desire to preserve zoning will also be reflected in the City’s new comprehensive zoning bylaw. Official Plan Sections 2.2.3.6-8 (City of Ottawa, 2005i) read as follows:

1. Applications to amend the zoning bylaw within urban areas to eliminate residential apartments as a permitted use, or to change the permitted use so that the effect is to down-zone a site, will not be permitted unless there is an equivalent rezoning to ensure no net loss of apartment potential or maintenance of unit yield potential through other forms of multiple-unit housing.
2. In situations where City Council has approved a concept plan that permits residential apartment uses in an urban area, but an amendment to the zoning bylaw has not yet been enacted to implement the concept plan, City Council will ensure that the enabling zoning bylaw amendment permits residential apartment uses.

3. Applications to amend the zoning bylaw for residential or mixed-use purposes in an urban area, where no concept plan exists, will provide for a mix that includes at least 40 percent apartments and other multiple units, such as townhouses, on lands that are:
 - a. At rapid-transit stations
 - b. On arterial roads where the site lies adjacent to, or between, developments of a similar nature, and
 - c. On large tracts of vacant parcels.

Down-Zoning in Calgary

Policy surrounding the practice of down-zoning, although not readily evident, has been given consideration through The City's premiere document governing future growth and development, the *Calgary Plan*. The following statements from the *Calgary Plan*, Chapter 1 Downtown as a Whole, speak to the desire to increase, rather than decrease, residential populations and could be viewed as policy devised to prevent down-zoning in Calgary (City of Calgary 1998: 78-79):

Calgarians have identified a number of objectives for the Downtown as a whole, many of which are complementary. For example, the enhancement of public environments supports the attainment of other objectives for the Downtown, such as increasing the residential population, encouraging greater cultural, commercial/retail vitality, etc. ... Encouraging the development of substantial residential precincts in appropriate locations within the Downtown.

The relevance and importance of prohibiting down-zoning stems from a potential lack of community opposition to the practice. Unlike applications to up-zone or increase density on a parcel or in a residential district, which have historically often met with significant opposition, an application to down-zone is less likely to meet significant, if any, community opposition. It is therefore incumbent upon administration and Council to make the correct decision, often without input from the community.

Policy to prevent down-zoning could be viewed as a check on market demands, and appears to make good planning sense. It is suggested that creating a specific policy addressing down-zoning may be the best method of addressing this practice, as it may be less open to variance or interpretation.

It is difficult to know with any certainty The City of Calgary's position on down-zoning. The *Calgary Plan* does not explicitly reject the practice of down-zoning; however, it alludes to a desire to intensify, primarily in the Downtown. It is therefore suggested that down-zoning could perhaps be considered more widely, with specific policy addressing where The City would not consider applications to down-zone residential land use. As a result, the issue may be less onerous on both administration and Council, who are often required to inform and justify such policy to applicants.

3.9 Alternate Development Standards

Development standards contribute to the inability of cities to provide affordable housing. The City of Ottawa has noted this deterrent and has pursued the use of alternative development, engineering and servicing standards for new residential development and redevelopment. Section 2.2.3.9 of the Official Plan (City of Ottawa, 2005*i*) states:

For all housing forms, the City will implement alternative municipal infrastructure and development standards (such as reduced road right-of-way width, utility trenching requirements, and reduced parking standards in areas serviced by public transit) in the context of a subdivision application.

The City of Ottawa has not made significant progress on this aspect of the Official Plan since its adoption. Although evidence would suggest a desire to create alternate development standards at or near transit stations, there are no plans to do so at present. At present, the department containing public works is preparing standards pertaining to how the City's road standards can be altered. Three new standards that are currently being debated by public works, which are illustrated in Appendix B:

- Single loaded roads around a park or along an arterial which would result in an 8.5 metre carriage way with a 14.0 metre right-of-way
- A 16.5 metre local road standard with a sidewalk on one side, and
- A new rear lane standard that would permit a 5.5 metre carriageway on an 8.5 metre right-of-way.

Though the impetus may or may not be geared at making new developments more affordable, the eventual result should be a reduction in infrastructure and, therefore, in costs. Unfortunately, the benefit from these alternate standards will be primarily restricted to new developments, often located on a City's fringe, which are less suitable for affordable housing. Another concern arising from these changes would be the need to ensure that the savings from such revisions will be passed on to home owners and renters.

It is not suggested that these alternative development standards are substantial in and of themselves; however, the combination of these incremental changes can produce positive results in regards to housing affordability. The standards presented above are currently under consideration in the City of Ottawa. A report is due out in the near future detailing how such standards may be integrated.³

³ This information has yet to be made public. Interested individuals can follow up on Ottawa's alternate development standards by contacting Mr. Dana Collings, City of Ottawa, 4th Floor, 110 Laurier Avenue West, Ottawa, Ontario K1P 1J1; Tel. (613) 580-2424, ext: 29003; Fax: (613) 580-2576.

Alternate Development Standards in Calgary

Calgary is in a good position to review its current development standards, as statutory policy supporting the further investigation of such practices does exist. Specifically, the *Calgary Plan* appears to be supportive of new standards through stated goals such as ensuring “new communities are more efficient to service (e.g., transit service, infrastructure)” and reducing “per capita costs of urban development, including capital, maintenance and operating costs” (City of Calgary, 1998: 37-38). Additionally, the following policies support the basic premise that alternate development standards could result in contributions to housing affordability (City of Calgary, 1998: 41):

1. Examine infrastructure and service standards that add to the basic cost of housing and consider the opportunities to relax them where appropriate (Policy 2-2.2.2F).
2. Encourage research and experimentation to reduce the cost of housing through innovation in housing types and construction methods (Policy 2-2.2.2G).

Discussion with City of Calgary staff suggests that equity is a key concern with respect to the implementation of alternative development standards. Equity concerns relate to the development industry’s ability to create housing on a level playing field regardless of use. Thus, any attempts to create opportunities to make housing more affordable for certain target groups jeopardizes the equality that is thought to exist at present. This may explain why alternate development standards pertaining to affordable housing have not been a high priority for Calgary to date.

The City of Ottawa’s consideration of alternate development standards does not, however, suggest precluding alternate standards on non-affordable housing developments. Rather, Ottawa sees alternate development standards as one more tool that may be added to the affordable housing toolbox to help ensure the City meets its goals on affordable housing targets. Similarly, the *Calgary Plan* seems to suggest that alternate design and construction standards should play a part in how Calgary grows.

4.0 Conclusions

Through the composition of this case study on affordable housing in Ottawa, a number of considerations on affordability from a municipal perspective have become clear. Although both administration and Council at The City of Calgary have recognized the importance of housing affordability in recent years, a sustained effort will be required, as demand appears to be escalating with no apparent end in sight. Thus, the commitment of a commensurate level of both capital and human resources to ensure that housing does, in fact, remain affordable will be essential.

Due to Calgary’s relatively fortunate and enviable levels of affordability in past decades, there has not been a great emphasis placed on below-market housing. Calgary’s past affordability can largely be attributed to an unconstrained land mass and relatively affordable surrounding agricultural lands to draw upon for growth.

There is, however, reason to believe that the affordability enjoyed in past decades may not be a given in the future. As a result of this dynamic, prompt action will be necessary to ensure that all levels of income have access to suitable housing at affordable levels.

As part of a comprehensive strategy to maintain and promote housing affordability, it may be necessary for The City of Calgary to go beyond its current capacity, which is somewhat constrained by enabling legislation at present. A comprehensive strategy is perhaps one of the greatest strengths of the Ottawa strategy in support of affordable housing. Arising from an acute need, the City of Ottawa has engaged itself in an advocacy role in dealing with senior levels of government. The hope is that the City can garner support and authority from senior levels of government for programs that can be used to target affordability.

Calgary's predominant belief in the market's ability to ensure a competitive market that will create housing for all income levels and satisfy demand may no longer be realistic. As a result, the assertion that the development industry or current landowners would find new opportunities highly interventionist and that the desired policy is not possible under current enabling legislation is no longer satisfactory. Therefore, it is recommended that The City of Calgary pursue an advocacy role with the Provincial Government in the ability to provide for:

- Inclusionary zoning
- Secondary dwelling units, specifically with respect to the Alberta Building Code and Alberta Fire Code
- Density bonusing and the addition of affordable housing as a planning objective in the *Municipal Government Act*
- Condominium conversion with specific attention given to Alberta's *Condominium Property Act*, and
- Restricting the demolition of affordable housing, especially in key areas.

Further, there are a number of areas where The City of Calgary can help provide for the creation or retention of affordable housing with no amendment to provincial legislation. Areas to be considered for review include:

- Acknowledging housing affordability as a key policy area in the Municipal Development Plan, Land Use Bylaw, and future corporate strategic studies and plans
- Consideration of affordable rental housing as a municipal facility, thus benefiting from this status
- Cash-in-lieu of parking policy, especially in key areas such as Transit Oriented Developments and inner city neighbourhoods
- Restricting the practice of down-zoning from medium/high density to lower densities, especially in areas which are suitable for or are known to provide affordable housing, and

- A wholesale consideration of alternate development standards that can significantly reduce capital infrastructure expenditures by both The City and developers.

Having said that, The City of Calgary is currently doing well in some areas with respect to affordability and is encouraged to continue and expand its capacity where possible. The best example of this is with respect to land acquisition and provisioning for servicing. The City of Calgary should continue with its current mandate to maintain a 30-year land supply, and a 5-year supply of serviced lots, as this is an obvious strength.

This case study suggests that in order to make a truly significant impact on affordable rental and owned housing, a new and inspired approach is required by Canadian cities. This does not mean reformulating affordable housing policies, which support mandatory requirements for developers that are difficult to enforce, especially in non-charter cities such as Ottawa and Calgary. Policy creation and amendments illustrate The City of Calgary's commitment to supporting rather than mandating affordable housing, which it believes will be more effective than mandatory requirements over the long term. Adopted and implemented independently, the initiatives described above can result in incremental improvements to housing affordability. Employed comprehensively, the initiatives can lead to wholesale and meaningful results in the provision of affordable home ownership and affordable rental housing in Calgary.

Although a fiscal imbalance among the various levels of government has considerably restricted Ottawa's ability to provide affordable housing, a new federal-provincial agreement could considerably alter this reality. As such, it is suggested that Calgary's Affordable Housing Implementation Team would be well-served to follow up on many of these initiatives in due course, as policy implementation occurs and staff has reviewed its relative success.

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Appendix A

Ottawa's Proposed Zoning Regulations for Secondary Dwelling Units

Definition

Secondary dwelling unit - means a dwelling unit located in the same building as, and subsidiary in nature to, its principal dwelling unit; and its creation does not result in a semi-detached, duplex, triplex, converted house, or three-unit dwelling as defined in any of the by-laws.

Related definitions

Dwelling unit, means a principal residential unit that,

- i. consists of a self-contained set of rooms located in a building,
- ii. is used or intended for use as a residential premises,
- iii. contains kitchen and bathroom facilities that are intended to be exclusive to the unit; and

is not a secondary dwelling unit, a mobile home or any vehicle.

Detached dwelling – a building containing one principal dwelling unit only and includes detached house, fully detached dwelling, single family dwelling, etc.

Semi-detached dwelling – a building containing two principal dwelling units only divided vertically and includes linked-detached dwellings

Duplex dwelling – a building containing two principal dwelling units only divided horizontally

Principal – primary and not secondary usage

Rooming unit –

- a room, or a suite of rooms, that constitutes a separate, independent occupancy in which a person resides, and
- which has either a kitchen or a washroom, but does not have both.

Garden Suite – a temporary one-unit, self-contained and portable detached residential structure that is ancillary to and on the same lot as a detached or semi-detached dwelling

Zone Location

A secondary dwelling unit is permitted in all zones where detached, semi-detached and duplex dwellings are permitted uses.

Location within dwelling and number permitted

The secondary dwelling unit is to be contained within the same building as its principal dwelling unit

A maximum of one secondary dwelling unit is permitted per principal dwelling unit in the case of a detached and semi-detached dwelling; and

A maximum of one is permitted per the whole of a duplex building

Proviso

The secondary dwelling unit must be on the same lot as the principal dwelling unit.

Size

If located at or above grade, the secondary dwelling unit must not be greater than an amount equal to 40% of the gross floor area of the principal dwelling unit. If located in a basement, it may occupy the whole of the basement.

Note: The principal dwelling occupant would continue to have access to facilities and services, associated with the principal unit or building, but located within the basement

Where an attached garage is converted to create the secondary dwelling unit, such attached garage is counted as gross floor area of the dwelling.

External appearance and impact along street

The secondary dwelling unit must have a separate access, such access of which may not be located in an exterior wall facing the front yard.

Note: Internal shared entrances, accessed but not visible from the front of the building, are permitted.

Servicing

Secondary dwelling units must be connected to public services where such services are available; however, where only private services are available, new secondary dwelling units may be connected to private services subject to approval by the City, to provide opportunity to review water quality and servicing capacity.

Share on-site parking

The principal and secondary dwelling unit must share the parking area provided for the principal dwelling unit, and no new driveway may be created, except in the case of corner lots.

Note: The City's Private Approach By-law takes precedence on those large lots by permitting a second driveway on lots with frontages greater than 20 metres, and on through lots).

Parking

No parking is required for a secondary dwelling unit, but where provided, must be in conformity with the parking provisions of the by-law, and must not be located in the front yard.

The creation of the secondary dwelling unit must not eliminate a required parking space for the principal dwelling unit.

Note: A secondary dwelling unit may be created in an attached garage, which contains a required parking space, provided the required parking space is located elsewhere on the lot in conformity with the parking provisions of the By-law.

Other residential uses within principal dwelling lot

Where a secondary dwelling unit is located on a lot, neither a garden suite nor any rooming units are permitted on that lot.

Home-based businesses

In the case of the secondary dwelling unit, home-based businesses are permitted, although no home-based day care is permitted.

No on-site non-resident employees permitted and no customers permitted on-site

Appendix B

Alternate Roadway Standards Being Considered in Ottawa

Figure 1. The 8.5 Metre Pavement of a 14.0 Metre Right-of-Way

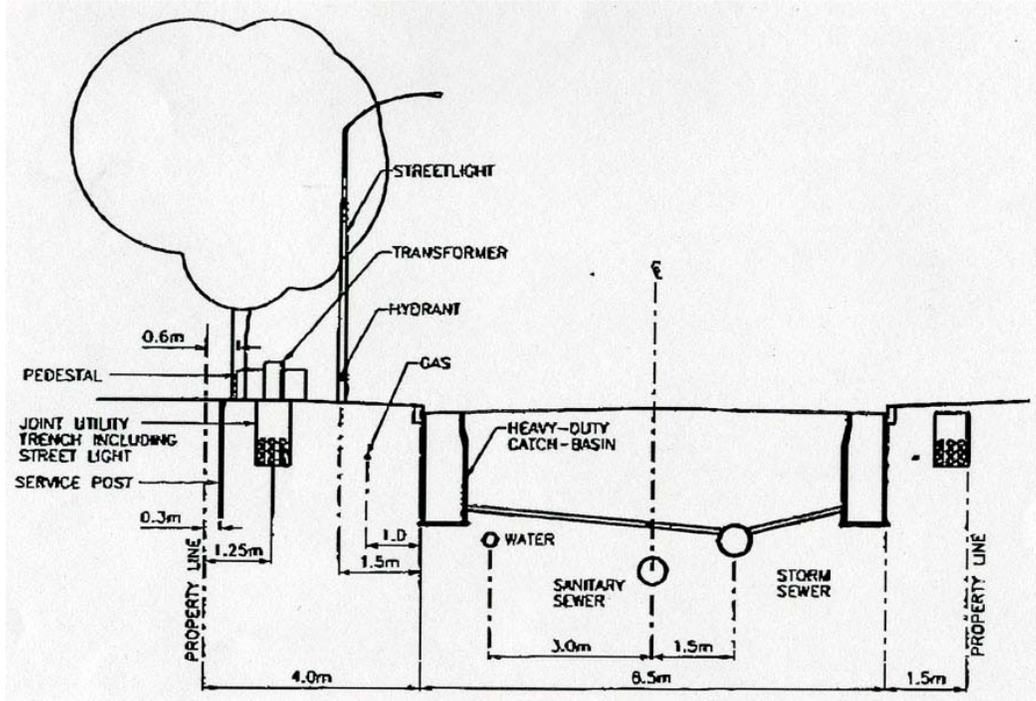


Figure 2. The 8.5 Metre Pavement of a 16.5 Metre Right-of-Way

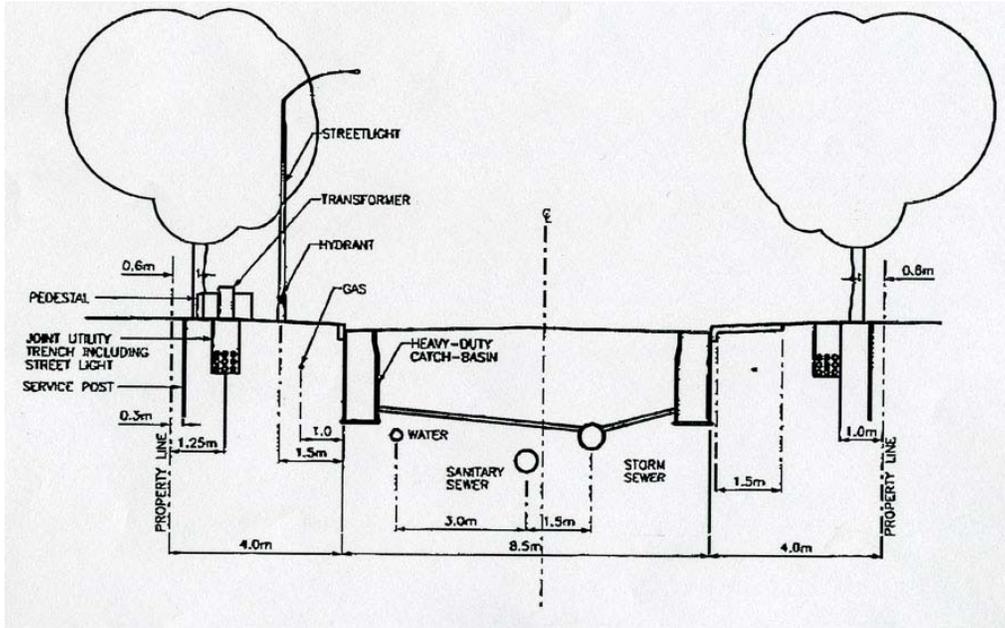


Figure 3. An 8.5 Metre Road Allowance for a Rear Alley

