



Report to Council

Department: Development Services
Division: Planning
Date: April 19, 2021
Prepared by: Rita Jabbour, RPP, Manager, Planning Services
Report Number: Planning 2021-09
Subject: Official Plan and Zoning Bylaw Amendment(s) to permit
Second Dwelling Unit (SDU) Policies and Regulations for
the Town of Essex

Number of Pages: 11 including attachments

Recommendation(s)

That Planning report PLANNING2021-09 entitled Official Plan and Zoning Bylaw Amendment(s) to permit Second Dwelling Unit (SDU) Policies and Regulations for the Town of Essex prepared by Rita Jabbour, RPP, Manager, Planning Services dated April 19, 2021 be received, and

That Bylaw Number 2013, Being a Bylaw to Amend the Official Plan for the Town of Essex to Permit Second Dwelling Unit Policies in Detached Structures on Lands Designated "Agricultural", be approved, and

That Council direct Administration to prepare a Zoning Bylaw Amendment with the proposed zoning regulations concerning Second Dwelling Units under Appendix B.

Purpose

To provide Council with proposed amendments to the Town of Essex Official Plan and Comprehensive Zoning Bylaw, Bylaw 1037, to permit the addition of a Second Dwelling Unit (SDU) in a main dwelling or a detached structure in the Agricultural district and select Residential districts throughout the Town of Essex.

The Municipality is required under subsection 16 (3) of the *Planning Act* to have policies in the Official Plan permitting the use of a SDU in a detached, semi-detached or townhouse dwelling, and the use of a SDU in a building or structure ancillary to those dwellings. The Zoning Bylaw gives effect to these policies by regulation.

Background and Discussion

Early Provincial Initiatives

In 2011, the Province of Ontario through the *Strong Communities through Affordable Housing Act*, required that each municipality have in place in their Official Plan, policies authorizing the addition of a Second Dwelling Unit (SDU) in a single-detached, semi-detached and townhome dwelling, or in a building or structure ancillary to the dwelling.

A SDU is a separate and independent housekeeping unit which includes its own entrance, bathroom and kitchen facilities, living room and bedrooms. As a housekeeping unit, an SDU is **not** a short term rental to be used as accommodations by the traveling public. A SDU is intended to be used as *long term accommodation* for those seeking *affordable rental housing alternatives*.

The Town of Essex complied with the mandates of the *Strong Communities through Affordable Housing Act* by amending the Official Plan to include policies permitting one (1) SDU in a single-detached dwelling and in a semi-detached and townhome dwelling unit, or, alternatively, in a building accessory to them, at general locations and in such manner, as specifically set out in the land use designations of the Official Plan and the Zoning By-law.

Current SDU Policies and Regulations Respecting Residential and Agricultural Lands

For those lands designated “Residential” in the Official Plan, other than those permitting three (3) season occupancy and mobile homes, the Official Plan includes policies permitting the addition of a SDU in a main dwelling or, as an alternative, in an ancillary/accessory building subject to compliance with the applicable provisions of the Official Plan and the Zoning Bylaw, but not on a lot having a garden suite.

For those lands designated “Agricultural”, the Official Plan includes policies permitting the addition of a SDU in a main dwelling but not in an accessory building.

The Town’s Comprehensive Zoning Bylaw, Bylaw 1037, gives effect to these SDU policies. Section 8.15 of Bylaw 1037 permits one (1) SDU as an additional permitted use **within** a single-detached dwelling or a semi-detached or townhome dwelling unit forming the main use of the lot in a **Residential zoning district only**, subject to compliance with the zoning regulations. Residents seeking to construct a SDU in a detached building ancillary to a dwelling in a Residential district would require an application for site specific amendment to the zoning bylaw.

In an Agricultural zoning district, Bylaw 1037 **prohibits** a SDU in a main dwelling or in an accessory building. Residents seeking to construct a SDU in the main dwelling in an Agricultural district would require an application for site specific amendment to the zoning bylaw. Residents seeking to construct a SDU in a detached building ancillary to a dwelling in the Agricultural district would require an application for Official Plan Amendment.

Expanded Provincial Mandates

In 2019, the *More Homes, More Choice Act* made amendments to that section of the *Planning Act* authorizing the addition of SDUs to require all Official Plans to have policies permitting two (2) residential units within a single-detached, semi-detached and townhome dwelling, and in a building or structure ancillary to the dwelling. The specific intent of the policy change is to provide affordable housing opportunities, **particularly rental housing. It is the Town’s decision**

to determine where and how such dwelling units will be accommodated, the applicable regulations and levels of service.

Required Amendments

In order to achieve the directive of the *More Homes, More Choice Act*, an amendment to the Official Plan is required in order to allow a SDU in a building ancillary to a main dwelling in the Agricultural District. Amendments to the Official Plan are also required to allow for the opportunity to construct a SDU in a main dwelling **and** in a detached ancillary building or structure in a Residential District since the Official Plan currently only provides for either option but not in both.

In order to give effect to these policy changes, amendments are also required to Bylaw 1037 to provide for a SDU as a permitted use in a main building in the Agricultural District, and within a main dwelling or in a detached building or structure ancillary to the main dwelling in the Agricultural and Residential District. Zoning amendments to regulate the location, setbacks, height, floor area and parking requirements is also required for SDU in detached ancillary structures.

April 6 Public/Special Council Meeting

A Public/Special Council meeting was held virtually on Tuesday April 6th to consider the proposed amendments to the Official Plan and Zoning Bylaw and to hear public feedback on the addition of SDU policies and regulations. **The public presentation is attached to this report as Appendix A.**

Although there were no members of the public registered as delegates, a survey on the topic was published for two (2) weeks prior to the meeting and garnered 157 responses. The majority of respondents supported the addition of a SDU in main dwellings and detached ancillary buildings in Residential and Agricultural districts. The majority of respondents who noted their intention to construct a SDU, indicated their desire to construct it in a detached building ancillary to the main dwelling on the lot.

Correction since the April 6 meeting: The presentation incorrectly identified the majority of responses as being opposed to limits on floor area and building height, when in fact the respondents were evenly split on their support and objection to limits on floor area and building height for a SDU in a detached ancillary building

Overall, Council supported limiting the height of a SDU in a detached ancillary building to one (1) storey in a required yard and allowing for a two (2) storey SDU structure outside of a required yard.

The following is summary of Council's comments and concerns and Administration's responses and recommendations:

Comment/Concern	Response/Recommendation
1. SDU may become Short Term Rentals	SDUs are to be used for long term residential accommodation. The Town is seeking to regulate Short Term Rentals through a separate Zoning Bylaw Amendment. Work is in progress on a community survey and public open house to explore the issue. A business licensing system will be vital to ensuring SDUs do not become Short Term Rentals.
2. SDU in ancillary buildings should have a square foot limit or be only 50 percent of the size of the main dwelling	The proposed regulation lets the prescribed maximum lot coverage for the respective zoning district dictate the size of the SDU. Currently, a low density residential district allows a maximum of 40 percent of the lot area to be covered by all buildings at grade (includes dwellings and accessory structure

Comment/Concern	Response/Recommendation
	<p>such as detached garage). The maximum lot coverage for a Rural Residential and Agricultural district is 25 percent. The size of the SDU will therefore be limited by this regulation by default. Proposed regulation also stipulates that detached ancillary SDU cannot be larger than the main dwelling.</p> <p>Recommendation: Allow lot coverage regulation to dictate size of SDU in detached building.</p> <p>Council may implement a limit in line with the current accessory structure regulations in the zoning bylaw (750 square feet) or impose a regulation of no greater than 50 percent of size of main dwelling (lot coverage would still apply in both scenarios).</p>
<p>3. SDU in ancillary detached structures may not be appropriate for an undersized lot</p>	<p>Recommendation: Add a new Zoning Bylaw regulation to section 9.3 “Special Lot and Yard Provisions” of Bylaw 1037 to permit a SDU in a main dwelling only if a lot situated in a residential district does not have the required lot area and/or lot width for that zoning district.</p> <p>This would prevent the addition of a SDU in a detached ancillary building on undersized</p>

Comment/Concern	Response/Recommendation
	residential lot. This would not apply to a SDU in an ancillary building in the Agricultural district.
4. Parking will become an issue	Proposed zoning regulation would require a proponent to provide one (1) on-site parking space for each dwelling unit . Compliance with parking regulation will be assessed at the time of building permit where the proponent will be required to submit a site plan showing parking.
5. Infrastructure may be an issue in some areas	Proposed zoning regulation will stipulate that servicing capacity must be sufficient. No building permit may be obtained if servicing is not available.

The following is summary of agency comments and concerns and **Administration's responses** and recommendations:

Department/Agency	Comments	Proposed Regulation/Comments
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Essex Region Conservation Authority (ERCA)	No objections. Request further consideration and dialogue as it relates to SDU in flood prone or hazards area	The Town must permit SDU. There is no need to include regulation respecting SDU in flood or hazard because proponent will be subject to ERCA approval as a condition of building permit approval.
Infrastructure Services	Will not be permitted their own separate service connections. May have impact on servicing in areas with limited capacity	The proposed zoning regulation requires sufficient servicing capacity and frontage on street. No building permit can be issued if these items are not in place.
Building Division	No objections. SDU subject to building Code regulations	
County of Essex	No objections. Consider including Official Plan policies prohibiting severance of detached SDUs in ancillary structures in agricultural districts.	Recommendation added to OPA bylaw.

The draft zoning regulations respecting SDU in main dwellings and ancillary dwellings are found under **Appendix B**.

Bylaw 2013

Bylaw 2013 amends Section 4.22, Section 5.4 (f) (ii), Section 5.7 (f) and (g) of the Town of Essex Official Plan to add policies respecting SDU in detached ancillary buildings in the Agricultural district, and in both the main dwelling and a building ancillary to the main dwelling in a Residential district, respectively.

Following **Council's approval**, Bylaw 2013 will be forwarded to the Manager of Planning Services for the County of Essex for approval. A Bylaw to amend the Zoning Bylaw will be **prepared for Council's consideration and adoption once County approval is received**. Notice of the passing of the Official Plan Amendment and the Zoning Bylaw Amendment will be **posted in the local papers for the public's information**.

Financial Impact

The Development Charges Act was recently amended to waive Development Charges for the addition of a Second Dwelling Unit (SDU) in a main dwelling or in a building ancillary to a main dwelling. Therefore, no development charges will be applicable for the construction of a SDU in the Town of Essex.

The addition of SDU policies may have impacts on servicing capacity for hard and soft services such as roads and community parks as more density is created to allow for more residents. However, these expenditures may be partially offset by an increase in the assessed value of residential and agricultural properties due to the SDU, resulting in additional tax revenue for the Town of Essex.

Consultations

Doug Sweet, Director of Community Services/Deputy CAO

Jeffrey R. Morrison, Director, Corporate Services/ Treasurer

Kevin Girard, Director, Infrastructure Services

Robert Auger, Town Solicitor/Clerk

Kevin Carter, C.B.O. /Manager, Building Services

Jeff Watson, Planner

Notice of the application for Official Plan amendment and Zoning Bylaw amendment was circulated to all persons and public bodies required to be notified under section 3 of Ontario Regulation 543/06 and subsection 5(9) of Ontario Regulation 545/06, including staff members from each Town of Essex department.

Link to Strategic Priorities

- ☐ Manage, invest and plan for sustainable municipal infrastructure which meets current and future needs of the municipality and its citizens.
- ☐ Create a safe, friendly and inclusive community which encourages healthy, active living for people of all ages and abilities.
- ☐ Provide a fiscal stewardship and value for tax dollars to ensure long-term financial health to the municipality.
- ☒ Manage responsible and viable growth while preserving and enhancing the unique rural and small town character of the community.
- ☐ Improve the experiences of individuals, as both citizens and customers, in their interactions with the Town of Essex.
- ☐ **Improve the Town's capacity to meet the ongoing and future service needs of its citizens** while ensuring the corporation is resilient in the face of unanticipated changes or disruptions.

Report Approval Details

Document Title:	Official Plan and Zoning Bylaw Amendments for Second Dwelling Units in Town of Essex .docx
Attachments:	<ul style="list-style-type: none">- SDU Presentation - Final.pdf- Draft Zoning Bylaw.docx- Bylaw 2013.docx
Final Approval Date:	Apr 13, 2021

This report and all of its attachments were approved and signed as outlined below:



Lori Chadwick, Director, Development Services - Apr 13, 2021 - 9:59 AM



Chris Nepszy, Chief Administrative Officer - Apr 13, 2021 - 10:49 AM