



Report to Council

Department: Development Services
Division: Planning
Date: June 21, 2021
Prepared by: Rita Jabbour, RPP, Manager, Planning Services
Report Number: PLANNING2021-12
Subject: Zoning Bylaw Amendment to Permit and Regulate
Second Dwelling Units in the Town of Essex
Number of Pages: 8 including attachments

Recommendation(s)

That Planning report PLANNING2021-12 entitled Zoning Bylaw Amendment to Permit and Regulate Second Dwelling Units in the Town of Essex prepared by Rita Jabbour, RPP, Manager, Planning Services dated June 21, 2021 be received, and

That Bylaw Number 2035, Being a Bylaw to Amend the Comprehensive Zoning Bylaw for the Town of Essex to Permit and Regulate Second Dwelling Units, be adopted for two readings only.

Purpose

To provide Council with proposed amendments to the 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

A Second Dwelling Unit (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.

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.

In order to achieve the directive of the *More Homes, More Choice Act*, an application to the Manager of Planning Services for the County of Essex for an Amendment to the Town of Essex Official Plan is required in order to include:

- Official Plan policies allowing a SDU in a building ancillary to a main dwelling in the Agricultural District, and
- Official Plan policies allowing a SDU in a main dwelling and in a detached ancillary building or structure in a Residential District.

An application to the County of Essex was made on Tuesday June 8th, 2021. **A decision on the application is still pending.**

In order to give effect to the proposed policy changes, amendments will be required to Bylaw **1037, the Town's Comprehensive Zoning Bylaw**, to provide for a SDU as a permitted use in a main building or in a detached building or structure ancillary to the main dwelling in the Agricultural District and select Residential Districts. Zoning amendments to regulate the location, setbacks, height, floor area and parking requirements are also required for a SDU in detached ancillary structures.

A Public/Special Council meeting was held virtually on Tuesday April 6th, 2021 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. **Attached is a copy of the Presentation from the Public/Special Council meeting.** A survey on the topic was published for two (2) weeks prior to the meeting and garnered 157 responses.

When asked if the building footprint of a SDU in a detached ancillary building should be limited to 70 square metres, forty-one (41) respondents neither agreed nor disagreed, and forty-one (41) respondents objected to the regulation.

When asked if the height of the SDU in a detached ancillary building should be restricted to one (1) storey or the first floor of an existing two-storey ancillary building, thirty-eight (38) respondents neither agreed nor disagreed and thirty-nine (39) respondents strongly disagreed.

Ultimately, 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.

Draft zoning regulations and official plan policies were presented to Council on April 19th, 2021 through Planning report 2021-09. **Attached is a copy of that report.** Although Council approved the Official Plan Policies and directed Administration to submit the application for

Official Plan Amendment to the County of Essex for final decision-making, Council expressed some concerns regarding the draft zoning regulations. The following is a summary of Council's main concerns with the draft zoning regulations:

- Council members had concerns with permitting a SDU in a required yard, such as a rear yard or side yard, due to its impact on the privacy of abutting neighbours. The suggestion was that a SDU should be located in the building envelope for the main dwelling
- Council also made comments concerning the 40 percent (%) lot coverage regulation in low density residential districts as it relates to the impact on the adjacent neighbours, and the parking regulation.

If an SDU is located in a main dwelling and within the building envelope, there will be little to no impact on the neighbouring lots. The proposed zoning regulation would require a proponent to provide one (1) **on-site** parking space for **each dwelling unit**. Compliance with the parking regulation will be assessed at the time of building permit where the proponent will be required to submit a site plan showing the on-site parking space.

Bylaw 2035

Bylaw 2035 amends Zoning Bylaw 1037 by substituting the following regulations and general provisions for Second Dwelling Units (SDU):

- a) One (1) second dwelling unit shall be an additional permitted use in a single-detached dwelling or a semi-detached or townhome dwelling unit, provided that:
 - (i) the lot is in an Agricultural District or a Residential District but not in a Residential District permitting exclusively dwellings for three season occupancy or mobile homes;
 - (ii) there is no outward indication of the existence of the second dwelling unit, except as mandated by the Ontario Building Code;
- b) Alternatively, but not in combination with a) above, one (1) second dwelling unit shall

be an additional permitted use in a building ancillary to a single-detached dwelling, semi-detached dwelling unit or townhome dwelling unit, provided that:

- i. the lot is in an Agricultural District or a Residential District but not in a Residential District permitting exclusively dwellings for three season occupancy or mobile homes;
- ii. the second dwelling unit shall not be permitted in an ancillary building located in a required yard.

a) General Provisions:

- i) the lot has frontage on a street and is serviced by a municipal sanitary sewer of sufficient capacity or an approved septic system of sufficient capacity, an approved storm water outlet and a piped water supply;
- ii) Only one (1) water and sanitary service connection will be permitted per lot to service the secondary dwelling unit when available services are municipally owned and operated. A separate service connection for the second dwelling unit will not be permitted. All municipal water for the second dwelling unit must pass through the existing water meter. No secondary water meter or water account will be permitted for the second dwelling unit. A second dwelling unit with access to municipally-owned and -operated water and sanitary services will not be permitted to connect to any existing private on-site septic facilities or water system.
- iii) one (1) onsite parking space is provided for each dwelling unit;
- iv) the main dwelling and the lot on which it is located conform to all regulations of the Zoning District, in which the lot is located, applicable to them;
- v) the provisions of clauses 8.4, i) and iii), do not apply to a second dwelling unit; (Clause 8.4 i) and iii) prohibits the use of a cellar, either in whole or in part, as an individual dwelling unit, and limits the size of a dwelling unit to 60 square metres (650 square feet) in gross floor area for a single detached, semi-detached or townhome dwelling).

- vi) a second dwelling unit shall not be used as a short term rental unit.

Bylaw 2035 makes amendments to subsection 9.3, Special Lot and Yard Provisions, by excluding a second dwelling unit in a building ancillary to the main building when located 1.2 (4 feet) from a side or rear lot line. Bylaw 2035 also makes amendments to subsection 10.3, Accessory Buildings, by allowing a second storey on an accessory building where a second dwelling unit is proposed, but not on an accessory building located in whole or in part in a required yard.

Bylaw 2035 will only come into effect once the County of Essex approves the Official Plan Amendment to provide for SDU policies in the Town of Essex Official Plan, and when finally adopted through a third and final reading by Town of Essex Council.

Financial Impact

The Development Charges Act was recently amended to exempt Development Charges for the addition of a Second Dwelling Unit (SDU) in a main dwelling or in a building ancillary to a *new* main dwelling. Therefore, no development charges will be applicable for the construction of a SDU in the Town of Essex in these circumstances. Since development charges are calculated based on growth estimates at cost, the municipality is required to fund any municipal waived development charges if not exempted under the Development Charges Act and its associated regulations.

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:	Zoning Bylaw Amendment to Permit and Regulate Second Dwelling Units in the Town of Essex .docx
Attachments:	<ul style="list-style-type: none">- Bylaw 2035.docx- SDU Presentation - Final.pdf- Official Plan and Zoning Bylaw Amendments for Second Dwelling Units in Town of Essex .pdf- Draft Zoning Bylaw.pdf- Bylaw 2013.pdf
Final Approval Date:	Jun 15, 2021

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



Lori Chadwick, Director, Development Services - Jun 14, 2021 - 1:36 PM



Chris Nepszy, Chief Administrative Officer - Jun 15, 2021 - 1:49 PM