

To: Mayor and Members of Town of Tillsonburg Council

From: Eric Gilbert, Senior Planner, Community Planning

Implementation of Provincial Direction on Additional Residential Units (ARUs)

REPORT HIGHLIGHTS

- The Province has recently completed updates to various legislation and policies to require municipalities to establish Official Plan policies and Zoning provisions to allow for the establishment of an 'additional residential unit' in single detached, semi-detached and row-house dwellings and/or in a structure ancillary to such dwellings.
- This report provides an overview of this new Provincial direction with respect to such units (e.g. Planning Act provisions and PPS policies) and related land use planning and implementation considerations, including the need to review and amend the Official Plan policies and Zoning By-law provisions for the Town to reflect this provincial direction.
- Planning staff are seeking direction from the Town as to how they would like to proceed with the review of these planning documents to ensure they comply with the current Provincial direction on 'additional residential units' and provide clear and up to date direction with respect to where such units are permitted in the Town, and what standards apply.

DISCUSSION

Purpose and Background

Over the last few years, there have been a number of amendments to Provincial legislation and policy to place a much stronger focus on increasing housing availability, choice and affordability as a matter of Provincial interest. One of the key ways the Province has chosen to further this interest is by requiring municipalities to enact Official Plan policies and Zoning provisions to allow for the establishment of 'additional residential units (ARUs)' in certain lower density housing types and removing a number of perceived barriers to the establishment of such units (e.g. exemption from development charges, streamlining building code requirements, limiting the ability to appeal implementing policies and zone provisions and dictating certain standards and requirements for such units).

This new Provincial direction on ARUs was largely provided through Bill 108 - *More Homes, More Choice Act*, which was passed on June 6, 2019. Among other changes, the Bill amended the Planning Act to direct municipalities to enact Official Plan policies and Zoning provisions to allow for the establishment of an ARU in a single detached, semi-detached or row house dwelling and within a building or structure ancillary to such dwellings.

Accompanying Planning Act regulations (O. Reg. 299/19) also came into effect on Sept. 3, 2019, which now dictate a number of requirements and standards with respect to ARUs (e.g. number and type of parking spaces required, removing the ability to regulate the date of construction and who may occupy the principal and/or additional unit). The Provincial Policy Statement (PPS) was also amended in early 2020 to include specific policy references to 'additional residential units'.

Since this new Provincial direction on ARUs was announced, Planning staff have received numerous inquiries about the process and requirements for establishing such units in Tillsonburg as well as in other municipalities in Oxford County. Further, applications for zone change have been recently submitted to allow for the establishment of an additional dwelling unit in an existing dwelling (e.g. in accordance with the existing Official Plan policies for converted dwellings) in areas where they are not currently permitted 'as of right' or where zone provisions required variances to enable converted dwellings.

Like many other municipalities, the Official Plan policies and Zoning provisions in Oxford have not yet been updated to reflect the most recent Provincial direction with respect to ARUs. This has resulted in some uncertainty and a number of questions/concerns from Town staff with respect to where such units should be permitted and what standards should apply. That said, with the necessary Provincial legislation and policy direction for ARUs now fully in effect, Planning staff are in a position to undertake the necessary updates to the local policies and provisions pertaining to such units.

As such, the purpose of this report is to:

- Provide an overview of the current Provincial requirements with respect to ARUs and associated planning considerations;
- Outline the process for reviewing and updating the Town's policies and Zoning provisions with respect to such units to ensure they are consistent with current Provincial requirements and provide clear and up to date direction for the establishment of such units in the Town; and
- Obtain Council direction on how the Town wants to proceed with such a review process.

Comments

The following commentary provides an overview of the current legislative and policy framework that applies to ARUs, as well as related land use planning and implementation considerations.

PLANNING ACT

The Planning Act provisions require that Official Plans shall contain policies that authorize the use of additional residential units by authorizing:

- The use of two residential units in a detached house, semi-detached house or rowhouse; and
- The use of a residential unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse.

The Act also requires that each local municipality ensure that their Zoning bylaws give effect to the policies described above. The Planning Act does not specifically define 'additional residential units'. It is important to note that the Planning Act restricts appeals of ARU official plan policies and zoning by-law provisions so that only the Minister of Municipal Affairs and Housing has the right to appeal municipal decisions on such matters to the Local Planning Appeal Tribunal (LPAT). Therefore, any new policies and/or zoning provisions approved by County/Town Council can only be appealed by the Minister.

The accompanying Planning Act regulations (O. Reg. 299/19) set out a number of specific requirements and standards with respect to additional residential units, as follows:

- Each additional residential unit shall have one parking space that is provided and maintained for the sole use of the occupant of the additional residential unit and it may be a tandem space;
- An additional residential unit may be occupied by any person regardless of whether the person who occupies the additional residential unit is related to the person who occupies the primary residential unit and whether the person who occupies either the primary or additional residential unit is the owner of the lot;
- Where the use of additional residential units is authorized, an additional residential unit is permitted, regardless of the date of construction of the primary residential unit.

2020 PROVINCIAL POLICY STATEMENT

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. Under Section 3 of the Planning Act, where a municipality is exercising its authority affecting a planning matter, such decisions "shall be consistent with" all policy statements issued under the Act.

The 2020 amendments to the Provincial Policy Statement (PPS), introduced a number of new and updated policies intended to increase the supply and mix of housing, including:

- Requiring that a range of 'housing options' and densities are to be planned for in order to meet projected housing demand;
- Added references to the terms 'affordable and market-based/market demand' to the policies pertaining to the determination of housing need;
- Requiring that planning decisions be aligned with Housing and Homelessness Plans; and
- Adding specific references to the term 'additional residential units' in the housing policies.

There are two sections of the PPS that specifically refer to the term additional residential units:

Section 1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns – As per Section 1.1.1 of the PPS, healthy, livable and safe communities are sustained by:

- accommodating an appropriate affordable and market-based range and mix of residential types (including single-detached, additional residential units, multi-unit housing, affordable housing and housing for older persons), employment (including industrial and commercial), institutional (including places of worship, cemeteries and

long-term care homes), recreation, park and open space, and other uses to meet long-term needs;

Section 1.4 Housing - Planning authorities shall provide for an appropriate range and mix of housing options and densities to meet projected market-based and affordable housing needs of current and future residents of the regional market area by permitting and facilitating all types of residential intensification, including additional residential units, and redevelopment in accordance with policy 1.1.3.3.

The Provincial Policy Statement, similar to the Planning Act, does not offer a definition of Additional Residential Unit, but rather includes the term within definitions of “Housing Options” and “Residential Intensification” definitions as follows.

Housing Options - means a range of housing types such as, but not limited to single-detached, semi-detached, rowhouses, townhouses, stacked townhouses, multiplexes, additional residential units, tiny homes, multi-residential buildings. The term can also refer to a variety of housing arrangements and forms such as, but not limited to life lease housing, co-ownership housing, co-operative housing, community land trusts, land lease community homes, affordable housing, housing for people with special needs, and housing related to employment, institutional or educational uses.

Residential Intensification - includes the conversion or expansion of existing residential buildings to create new residential units or accommodation, including accessory apartments, additional residential units, rooming houses, and other housing options.

When the new PPS was released, Planning staff had requested that the Province consider establishing a definition through future Provincial guidelines to clarify that the intent of such dwelling units is to increase the supply of affordable rental housing and that such units are to be clearly secondary to the primary dwelling unit on the property. However, there has been no indication of any Provincial action in this regard to date.

OFFICIAL PLAN:

The Official Plan does not currently contain policies that specifically address the current Provincial direction with respect to ARUs. However, the Plan does contain policies that permit Town Council to zone areas or properties to permit single detached, semi-detached and townhouse dwellings to be converted into two residential units and to be converted into more than two units, if a number of criteria can be met, including:

- that the area is characterized by a mixture of dwelling types;
- lot sizes are generally sufficient to accommodate the required parking without detracting from the visual character of the area; and
- the existing dwellings are generally of sufficient size to accommodate the creation of additional dwelling units.

The policies further state that the Zoning By-law may limit the number of units that may be contained in a converted dwelling and specify minimum lot or dwelling size requirements for conversion. To maintain the external character of the dwelling, the Zoning By-law may also limit the extent of structural changes or additions that may be permitted. In addition, the policies state that converted dwellings with more than two dwelling units may be subject to site plan control.

The Plan also contains policies with respect to rear yard infilling in residential areas which allow for various forms of residential development in a rear yard including, but not limited to, the construction of a residential structure behind a building facing a street, the conversion of secondary structures for residential purposes and establishment of a granny flat or garden suite.

A number of criteria are provided for evaluating such forms of development, including:

- the nature of the proposed development will be evaluated having regard to the type of housing found in the surrounding residential neighbourhood;
- the exterior layout in terms of height, bulk, scale and layout of the proposed building is consistent with the present land uses in the area;
- the siting of any buildings and parking areas in relation to the size, configuration and topography of the lot is such that the effect on light, view and privacy of adjacent yards is minimal;
- direct vehicular access to a public street is required and driveways will have sufficient width to allow efficient vehicular use and turning of both private and emergency vehicles and to provide snow storage; and
- such development may be subject to site plan control.

These existing Official Plan policies already allow Town Council to zone properties or areas to allow for the establishment of an additional residential unit in a single detached, semi-detached or townhouse dwelling and/or in an ancillary structure on a residential property, in a similar manner to the current Provincial direction on ARUs. These policies provide the general framework for the incorporation of specific ARU policies into the Official Plan. However, they will still require further review and amendment to ensure they clearly reflect current Provincial direction on ARUs, including ensuring they specifically reference the term Additional Residential Units and direct that the Area Municipalities must establish Zoning to authorize the use of ARUs in accordance with the applicable Planning Act requirements and Official Plan policies. That said, it is expected that any updated policies would still provide flexibility for the Area Municipalities to establish Zoning provisions that provide more detailed local direction with respect to where such units could be located and what standards apply.

TOWN OF TILLSONBURG ZONING BY-LAW:

The above-noted policies of the Official Plan are implemented through the Town's Zoning By-law. Lands zoned 'Residential Type 1 Zone (R1)' in the By-law permit only a single-detached dwelling and are subject to varying lot area provisions which are related to the frontage of a particular property. Any proposal for a converted dwelling (i.e. a second unit) in an R1 Zone requires an amendment to the Town's Zoning By-law. Converted dwellings, semi-detached and duplex dwellings as well as single-detached dwellings are permitted in the Town's 'Residential Type 2 Zone (R2)' and are generally subject to lesser lot area and frontage requirements than the R1 Zone. Converted dwellings consisting of greater than 2 units as well as other forms of multi-unit residential development are permitted in the 'Residential Type 3 Zone (R3)'.

Planning staff are of the opinion that the current provisions of the Town's Zoning By-law would benefit from a thorough review, together with the current Official Plan policy framework, to determine appropriate lot sizes (area and frontage) for ARU development, including consideration of provisions that would apply to the establishment of ARUs in buildings and structures other than

the residential dwelling (e.g. accessory buildings). Such review could also consider alternative measures that could be employed to regulate ARUs, including limiting the size of such units, the location of entrances, restricting the construction of additions for ARU development and the possible use of licencing for new ARUs.

The current provisions of the Town's Zoning By-law were established in 2008, however, many of these provisions (particularly related to lot depth and lot frontage) existed in the Town's previous By-law, which was approved in 1977. With the recent Provincial direction regarding ARUs and affordable housing initiatives in general, a number of municipalities have embarked on Official Plan policy and zoning provision reviews that will assist in the Town's consideration of appropriate measures related to where ARUs should be permitted.

Planning Analysis

Municipal implementation of the current Provincial direction with respect to ARUs would begin with review of the Official Plan which, as per the provisions of the Planning Act, must contain policies that authorize the use of an additional residential unit in a detached, semi-detached or row house dwelling and in a building or structure ancillary to such dwelling types.

In Oxford, this would involve updating the Official Plan to include specific policies to enable and guide the establishment of ARUs in the each of the Area Municipalities, consistent with the applicable Planning Act and PPS direction. It is currently anticipated that these policies would be relatively high level, with the focus being on supporting and enabling the establishment of ARUs where appropriate, based on relevant planning considerations such as availability of water and wastewater services, avoiding hazard areas (e.g. flooding, erosion, unstable soil), protecting prime agricultural land and other natural resources, etc. Each of the Area Municipalities in the County would then be responsible for enacting Zoning By-Law provisions, and any other tools and measures they may feel are necessary, to implement the Provincial direction and Official Plan policies for ARUs at the local level and to establish the more detailed local requirements for such units.

The following provides some further discussion on the general rationale for allowing the establishment of ARUs and related planning and implementation considerations.

a) Rationale for Allowing ARUs

The rationale typically provided (e.g. by the Province and others) for facilitating the establishment of ARUs is generally as follows:

- *Increase supply of affordable housing* – ARUs can provide an affordable rental housing option and assist with the costs of home ownership (e.g. by providing rental income).
- *Increased supply of rental housing* - ARUs can assist in increasing the supply of rental housing in a community and, thereby, the range of housing types and tenures needed to sustain a healthy, vibrant community that can accommodate a range and mix of households (e.g. different life/career stages, ages, size, income etc.).

- *Increased housing options and flexibility to address a range of housing needs* - ARUs can provide an attractive option for singles and young professionals and those with extended families, aging parents, adult dependents, live-in caregivers etc. and can also provide flexibility to adjust to changing housing needs over time (e.g. as people age).
- *Make more efficient use of existing housing stock* – Neighbourhoods can transition over time and households be 'over-housed' for a variety of reasons. For instance, a larger home that may have been well suited for a young family with children and working incomes may become too large once their children move out and/or the occupants are on a fixed retirement income or lose a spouse. Allowing for a portion of the home to be converted into an ARU can help such families remain in their homes and neighbourhoods (i.e. not having to sell and downsize) by making use of their surplus floor space and providing a source of supplemental income while, at the same time, increasing the supply of housing in the community.
- *Make more efficient use of land, infrastructure and public services* - ARUs are often referred to as 'soft' or 'hidden' density, as they can assist in increasing the total number of households in an area with limited impact on the built character. Increasing the residential density in existing communities can assist in preserving agricultural land, making more efficient use of existing infrastructure (e.g. roads, sewers etc.) and public services (e.g. schools, parks, recreation facilities, public transit etc.) and supporting other local services (e.g. stores, restaurants, personal/health care services etc.).

Planning staff's current understanding is that the Provincial expectation is that such units will be largely permitted 'as of right' (i.e. subject to obtaining a building permit and complying with any applicable Zoning provisions) in single detached, semi-detached and townhouse dwellings in most fully serviced settlement areas, unless there is a clear planning basis for not doing so (e.g. presence of natural hazards or resources, servicing constraints or other PPS policy based rationale). That said, it is also understood that municipalities will be permitted to develop reasonable local standards and minimum requirements that will need to be met for such units to be established, particularly in cases where they are to be located in a building or structure ancillary to the primary dwelling.

Based on a recent review of municipalities who have implemented or are in the process of implementing local direction on ARUs, it appears that such units are generally being allowed 'as of right' in the main dwelling in residential zones that permit a single detached, semi-detached or rowhouse dwelling, subject to complying with applicable zone provisions. In terms of permitting ARUs in accessory buildings the approach varies considerably.

The only municipality within Oxford County that has formally initiated the process to establish a policy regime for ARUs is the City of Woodstock. In this regard, City Council have directed staff to establish policies and zone provisions that would initially limit the areas where ARUs may be established as of right to those residential areas that already permit multi-unit residential development (i.e. R2 and R3 zoned areas) and that additional areas for such development would be phased in based on the City's monitoring of ARU development. That said, it should be noted that any local policies that are established with respect to ARUs will be reviewed by the Minister of Municipal Affairs and Housing to

determine whether they meet the Province's intent with respect to enabling the establishment of such units.

In this regard, the following section outlines some of the potential considerations that may help to inform the development of appropriate local standards and requirements for ARUs in the Town.

b) Potential Implementation Considerations

Potential land use and implementation issues that should be considered in the development of any local implementation approach for ARUs include, but are not necessarily limited to:

- *Parking* - Like other residential units, ARUs require parking. However, as noted above, Provincial regulations dictate that only one parking space may be required for an ARU and it may be provided as a tandem space (i.e. in front of or behind another space). Some potential options to help address concerns that may arise from this limitation include limiting the size/scale of the ARU, requiring adequate parking for the principle dwelling, ensuring adequate driveway width and parking space dimensions, reviewing on-street parking regulations, etc.
- *Health and Safety* – ARUs will need to meet various health and safety requirements, including compliance with any related Zoning By-law and Ontario Building Code provisions. At minimum, it is expected that new ARUs would be subject to the local building permit process, which will provide an initial opportunity for zoning and building/fire code review. That said, some municipalities have also established licensing/registration systems for such units to address concerns with health and safety standards being maintained after construction (e.g. to require post construction inspections and/or reporting etc.). Further, ARUs are generally not permitted in areas that are subject to flooding or other potential hazards.
- *Servicing and infrastructure* – Adequacy of infrastructure, particularly water and wastewater servicing infrastructure, will be a key factor in determining whether and where ARUs should be permitted. If a substantial number of ARUs were to be established in a particular area or community, it could significantly increase the demand on municipal water and wastewater services and potentially other infrastructure and public service facilities. This consideration will be of particular importance in smaller settlements with more limited servicing capacity.
- *Affordable/Secondary in Nature* – Although there are currently no specific planning or legal mechanisms to ensure such units are affordable, the general assumption appears to be that they will be affordable simply due to being relatively small size and secondary to the primary dwelling unit. Although the current Provincial direction (e.g. DC exemption, only one parking space etc.) and rationale for allowing such units seems to be predicated on this assumption, there does not appear to be anything in the implementing provincial legislation or policies that specifically references or mandates affordability or limits the size/scale of an ARU. Therefore, it will be important to establish appropriate local direction to ensure ARUs are secondary to the primary dwelling, limited in size and, to the extent possible, affordable. Some potential options may include:

- Establishing a definition for ARUs to clearly indicate they are to be secondary to the principle dwelling, limited in size/scale and to differentiate dwellings with ARUs from other dwelling types (e.g. duplexes, semi-detached);
 - Establishing limitations on unit size (e.g. maximum number of bedrooms, floor area and/or % of principle dwelling floor area etc.);
 - Ensuring an ARU cannot be severed from the lot containing the principle dwelling (e.g. where permitted in a detached accessory structure) etc.
- *Financial implications* – ARUs are exempt from development charges (DCs), provided the gross floor area of the ARU is less than or equal to the gross floor area of the primary dwelling unit. Therefore, the costs associated with any increased demand on services (e.g. water and wastewater services, roads, emergency services, recreation facilities etc.) from such units cannot be recovered through DCs. If a large number of ARUs were to be established in a particular community (e.g. through conversions or becoming a standard builder option for new homes), it could potentially result in a substantial increase in demand for services. As such, the Town may wish to discuss any potential long term financial impacts with their DC consultant. Regardless, this consideration reinforces the importance of ensuring ARUs remain secondary in nature and limited in size/scale so that the potential for increased demand on infrastructure and public services is also limited.
 - *Locational considerations* – There are a number of locational/context specific considerations that may impact whether and where it may be appropriate to allow for the establishment of ARUs and what requirements/review criteria may be necessary. These may include restricting the establishment of ARUs in areas subject to natural or environmental hazards, or in areas that may create land use compatibility concerns (e.g. in proximity to major facilities or industrial uses).
 - *Number of ARUs per lot* - It may be reasonable to restrict the number of ARUs permitted on a lot for a number of reasons, including:
 - Existing units and other uses on the property (e.g. multiple existing dwellings or a boarding/lodging house, garden suite, converted unit, home occupation, bed and breakfast etc.);
 - Adequacy of servicing;
 - Lot size (e.g. adequate area for parking, landscaping and amenity areas) etc.
 - *Maintaining Neighbourhood Character* – There are a number of potential approaches that could be considered to help ensure such units do not detract from the built character of a property or area including, but not necessarily limited to:
 - Not allowing additional driveways, restricting the width of driveways or proportion of a front yard that can be used for parking etc.;
 - Requiring a minimum amount of landscaped area and/or amenity space to be maintained or provided;
 - Limiting the extent of exterior alterations (e.g. building additions, decks, fire escapes, stairways, doorways etc.) and/or restricting in certain yards (e.g. so they are not visible from the street);
 - Establishing minimum lot area, frontage and setbacks and/or maximum lot coverage requirements etc.

- *ARUs in accessory structures* – The considerations related to allowing for an ARU in a structure accessory to the primary dwelling may differ considerably from those for an ARU to be located within a primary dwelling. As such, it is expected that there will be circumstances or areas where it may be appropriate to allow for an ARU to be established ‘as of right’ within a primary dwelling, but not in an accessory building, or to establish different review criteria or processes for the establishment of an ARU in an accessory structure versus within a primary dwelling.

It is expected that many of these considerations can be at least partially addressed through appropriately crafted Official Plan policies and zoning provisions. However, there may be some that will require the consideration of additional implementation measures to effectively address.

With respect to the public engagement and consultation, the required amendments to the Official Plan and Town's Zoning By-Law are required to meet the statutory public notification requirements of the Planning Act, including posting notice of complete application and notice of public meeting in a local newspaper, Town and County websites, and considering the application in a statutory public meeting. If Council desires additional public engagement, direction should be provided to staff.

Conclusions

This report provides an overview of the legislative context and key planning considerations associated with the implementation of local direction on ARUs to serve as the initial basis for consultation with the Town to identify local concerns and preferred approaches and to obtain Council direction with respect to initiating review of the Town's Official Plan policies and Zoning provisions to specifically address such units. Given the level of interest and recent questions and concerns that have arisen with respect to such units in Tillsonburg, the Town may wish to expedite review of their policies and Zoning By-Law provisions by initiating their own Official Plan amendment application, as well as an amendment to the Town's Zoning By-law.

RECOMMENDATION

It is recommended that Council of the Town of Tillsonburg receive Report No. CP 2022-07, as information;

AND FURTHER, it recommended that the Council of the Town of Tillsonburg direct planning staff to initiate a review of the current legislative and policy framework with respect to Additional Residential Units and authorize staff to initiate the necessary amendments to the Official Plan and Zoning By-Law to establish the Town's requirements for such units.

SIGNATURES

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