

**To: Warden and Members of County Council**

**From: Director of Community Planning**

## **Supplemental Report 2 Proposed Official Plan Amendment (OP 22-16-9) Additional Residential Units in Rural Areas Post-Bill 23**

### **RECOMMENDATIONS**

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- 1. That Oxford County Council approve Application No. OP 22-16-9, initiated by the County of Oxford, to amend the Official Plan to implement Additional Residential Unit policies for the rural areas of the County;**
- 2. And further, that Council approve the attached Amendment No. 285 to the County of Oxford Official Plan;**
- 3. And further, that the necessary by-law to approve Amendment No. 285 be raised.**

### **REPORT HIGHLIGHTS**

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- On October 25, 2022, the Province initiated consultation on Bill 23, *More Homes Built Faster Act* (Bill 23), which received Royal Assent on November 28, 2022. The Bill includes changes to several pieces of provincial legislation (e.g. Planning Act and Development Charges Act) and included updates to Provincial direction with respect to 'additional residential units (ARUs)'.
- On October 26, 2022, County Council deferred their decision on the proposed Official Plan amendment (OPA) to implement policies for ARUs in the rural Townships in order to provide an opportunity to consider the impact of the Bill 23 changes on the proposed amendments, prior to final approval of the OPA. These legislative changes have since been reviewed and considered by Planning staff and the necessary revisions incorporated into the draft OPA that was previously considered by County Council.
- This report provides an overview of the OPA process to date and summarizes the minor revisions to the draft policies that are being proposed to address Bill 23. These changes are also reflected in the attached Official Plan Amendment which is being recommended for final approval by Council.

## **Implementation Points**

The proposed amendments will be implemented in accordance with the relevant objectives, strategic initiatives and policies contained in the Official Plan. Further, once the Official Plan amendment has received County Council approval, each of the Township's will need to initiate updates to their Zoning By-laws, and consideration of any other local tools and/or measures deemed necessary or appropriate, to reflect and implement the new ARU policy direction.

## **Financial Impact**

The approval of this amendment will have no financial impact beyond what has been approved in the current year's budget. However, it should be noted that the establishment of a substantial number of ARUs in a particular community could result in increased demand for municipal services and/or infrastructure without the ability by the County and/or Area Municipalities to collect Development Charges (DCs) to offset any of the costs, as such units are exempt from DCs under the Development Charges Act.

## **Communications**







A Public Meeting under the Planning Act was held at County Council on September 14, 2022. The Notice of Public Meeting was advertised in local newspapers, posted on the County website and provided to agencies and stakeholders that were considered to have an interest in the proposal, as well as other persons and groups that had indicated interest in the proposed amendments in accordance with the Planning Act.

Further details regarding consultation with Township staff and Councils, County staff and the public is provided in [Report CP 2022-332](#) and below.

Supplementary communication of the proposed amendments and updates has been provided continuously by way of social media and a project-specific webpage on the County's Speak Up Oxford platform. No further consultation regarding the proposed revisions to the attached Official Plan Amendment has been undertaken, as the intent and details of the amendment have remained the same, with the exception of some minor revisions required to reflect the new mandatory requirements under the Planning Act.

If the proposed Official Plan amendment is approved by County Council, notice of the decision will be advertised in local newspapers in accordance with the requirements of the Planning Act, as well as provided directly to those persons, groups and agencies that have expressed interest in the matter. Notice will also be posted to the County website and Speak Up Oxford.

**Strategic Plan (2020-2022)**

					
<b>WORKS WELL TOGETHER</b>	<b>WELL CONNECTED</b>	<b>SHAPES THE FUTURE</b>	<b>INFORMS &amp; ENGAGES</b>	<b>PERFORMS &amp; DELIVERS</b>	<b>POSITIVE IMPACT</b>
		3.ii. 3.iii.	4.i. 4.ii.		

**DISCUSSION**

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**Background**

On June 6, 2019, the Province passed the *More Homes, More Choice Act* (Bill 108), which required municipalities to enact Official Plan policies and Zoning provisions to allow for the establishment of ‘additional residential units (ARUs)’ in a single detached, semi-detached or row house dwelling and/or within a building or structure ancillary to such dwellings. In keeping with that Provincial direction, on January 26, 2022 (through [Report CP 2022-16](#)) County Council directed Planning staff to initiate an amendment to the County Official Plan with respect to permitting ARUs in the County’s rural areas (i.e. the five townships).

Following extensive consultation, a report outlining proposed changes to the Official Plan policies and a summary of input received from Township Councils and staff, County staff, and the public was provided to County Council on September 14, 2022 ([Report CP 2022-332](#)). Further comments from Council and the public were provided at the Public Meeting under the Planning Act, held on September 14, 2022, and are described in supplemental report to Council on October 26, 2022 ([Report CP 2022-371](#)).

One day prior (i.e. October 25, 2022) to Council considering the above noted report and Official Plan Amendment, the Province released a draft of Bill 23, *More Homes Built Faster Act* for consultation. This Bill proposed a number of changes to the previous provincial direction on additional residential units (ARUs). Given these proposed legislative changes, County Council resolved to defer their decision on the updates to the rural ARU policies to provide an opportunity to assess the potential implications from Bill 23 and associated changes to O. Reg. 299/19, prior to finalizing the amendments.

Bill 23 subsequently received Royal Assent on November 28, 2022 and the amendments to the associated ARU regulations (O. Reg. 299/19) were enacted on December 22, 2022. The approved legislation has amended the provincial direction with respect to ARUs in several respects, which has necessitated the need for some minor revisions to the proposed draft policies. Planning staff have met with Township staff to discuss the ARU changes introduced through Bill 23. However, no further Council or public consultation on the revised amendments has been undertaken, as the overall policy intent and approach has remained essentially unchanged, with the exception of the minor revisions required to reflect the updated Planning Act requirements, as outlined in this report.

## Comments

The following commentary provides an overview of the legislative framework that applies to ARUs following the passing of Bill 23, as well as related land use planning and implementation considerations. A review of the policies of the Provincial Policy Statement and current Official Plan is provided in the report prepared prior to the Public Meeting on September 14, 2022 ([Report CP 2022-332](#)).

Bill 23 has repealed the previous Planning Act requirement for municipal official plans and zoning by-laws to contain policies and provisions that authorize the use of ARUs in a single detached, semi-detached or townhouse dwelling and/or in a structure ancillary to such dwelling. This requirement has been replaced by new provisions that do not allow any official plan or zoning by-law to have the effect of prohibiting the use of up to three residential units per lot on a 'parcel of urban residential land' in an existing or new single detached, semi-detached or townhouse dwelling (i.e. up to three units in the principal dwelling, or one unit in an ancillary structure and up to two units in the principal dwelling). A 'parcel of urban residential land' has been defined as a parcel of land that is within an area of settlement on which a residential use, other than an ancillary residential use, is permitted and that is served by municipal water and sewage services. Further, municipalities would not be able to require more than one parking space per unit or set a minimum floor area for units in a serviced settlement area.

Essentially the legislative changes would maintain the previous maximum of two additional residential units per lot (i.e. for a total of three units), but now allow for both of those additional units to be located within the principal dwelling (i.e. was previously limited to one in the principal dwelling and one in an ancillary structure) in a fully serviced settlement. There is also no longer a requirement for municipalities to enact policies and zoning to authorize the use of ARUs on lots outside of fully serviced settlements. This change creates some ambiguity as to whether an ARU in an ancillary residential structure on a farm would be permitted by current Provincial policy (i.e. only permits a residential use on a farm if required for the primary agricultural use). Therefore, as part of the County's comments on the current review of the Provincial Policy Statement, planning staff have requested that the Province clarify that ARUs may be permitted in an ancillary residential structure on a farm. It is currently expected this clarification will be provided through the proposed updates to the PPS, as such the previously proposed OP policies for the establishment of ARUs on a farm have been maintained in the current version of the amendment.

The Planning Act authorizes the Minister to make regulations regarding ARUs more broadly (i.e., not limited to ARUs on a 'parcel of urban residential land'). The regulations to establish requirements and standards for ARUs (O. Reg. 299/19) have been amended to reflect the amendments to the Planning Act, but the changes are limited to reflecting the new definitions of 'additional residential unit' and 'primary residential unit' (i.e., increased to up to three units in the principal dwelling – the primary residential unit and up to two ARUs). No new limitations and/or criteria for units have been introduced and the previous limitations regarding parking, ownership and construction date of the principal dwelling remain as follows:

- each residential unit shall have one parking space that is provided and maintained for the sole use of the occupant, unless alternative parking provisions exist in the zoning by-law;
- the provided parking space may be a tandem parking space;

- an ARU may be occupied by any person regardless of whether the person is related to the person who occupies the primary residential unit and regardless of whether the person who occupies the primary or additional residential unit is the owner of the lot; and,
- an ARU is permitted regardless of the date of construction of the primary residential unit.

The Planning Act states that any regulations apply as though they are zoning provisions and prevail over the zoning by-law provisions. That said, it is planning staff's understanding that municipalities are still able to specify other reasonable development criteria, such as ensuring adequate servicing capacity and specifying maximum floor areas for such units, provided such criteria do not have the effect of prohibiting such units on a general basis in fully serviced settlement areas.

For Council's information, the Planning Act now prohibits appeal of official plan policies and zoning by-law provisions to permit ARUs in serviced settlements and within a principal dwelling in areas outside of serviced settlements. However, official plan policies and zoning by-law provisions to allow for the establishment of ARUs in ancillary buildings on lots outside of a fully serviced settlement area are now subject to appeal to the Ontario Land Tribunal (OLT), which they were not previously. Finally, all ARUs are now exempted from site plan control, development charges, and parkland dedication requirements.

#### Proposed Amendments to Official Plan Policies

The previously proposed draft Official Plan policies have been amended to reflect the following Bill 23 changes:

- requirement for each 'parcel of urban residential land' to have up to three units in a principal dwelling and remove any limitations on ARUs in fully serviced settlement areas that would 'prohibit' such units;
- recognize that site plan control is no longer an available tool; and
- clarify whether/how such units would continue to be permitted on lots with private services, both within and outside (i.e. rural residential and agricultural lots) settlements.

It is noted that permitting up to two ARUs 'as of right' in all fully serviced settlements could have significant impacts on servicing capacity, particularly for smaller rural systems, if there is substantial uptake on those permissions. As such, the proposed policies requiring confirmation of adequate servicing capacity have been maintained in the current draft to ensure this concern can be addressed.

The revised draft Official Plan Amendment (OPA 285) is included as Attachment 1 to this report and a 'tracked changes' version showing changes to the existing policies is also included as Attachment 2. The proposed amendments primarily pertain to Sections 4.2.2.1 (Growth Management - Rural Area) and 6.2 (Residential Uses in Rural Settlements), with some minor amendments to Sections 3.1 (Agricultural Area) and 6.3 (Commercial Uses in Rural Settlements). Minor housekeeping amendments to Section 10.3.9 (Temporary Use) are also proposed as part of this amendment to increase the maximum period a garden suite may be permitted from ten

years to twenty years to be consistent with current Planning Act provisions and to improve the overall clarity of the garden suite policies.

The draft OPA attached to this report sets contains proposed changes to the existing agricultural policies in Section 3.1 of the Official Plan to incorporate the appropriate references to ARUs and the associated policies in Section 4.2.2.1. However, it is noted that comprehensive updates to Section 3.1 of the Official Plan (agricultural policies) were recently adopted by County Council through OPA 269 and forwarded to the Ministry of Municipal Affairs and Housing (MMAH) for final approval, but have not yet been approved by MMAH. As such, it is anticipated that future housekeeping amendments to the agricultural policies will need to be brought forward following approval of the agricultural policies by MMAH to ensure that that they reflect the most up to date ARU terminology and references.

The general intent of the proposed amendments is to ensure consistency with the current Provincial direction on ARUs, while also establishing appropriate review criteria to inform and support the development of appropriate zoning provisions for each Township. The proposed approach will also allow for each Township to utilize other local implementation measures, such as licensing, servicing standards, and property standards, where deemed to be appropriate.

The proposed policy approach is generally described as follows:

- Specifically referencing the term ‘additional residential units’ in the updated policies, including replacement of various references to the term ‘converted dwellings’ throughout the rural sections of the Plan, where appropriate. A definition of ARU(s) was added to the Plan through the ARU amendment for the City of Woodstock, as follows:

*Additional Residential Unit (ARU)* means a separate, self-contained dwelling unit located within a single detached, semi-detached or street townhouse dwelling, or within a detached building ancillary to such dwelling, and which is located on the same lot as, and is clearly subordinate to, the principal dwelling.

- Requires (in fully serviced settlements) or allows (outside fully serviced settlements) each Township to establish appropriate zoning provisions to allow for ARUs in single detached, semi-detached and townhouse dwellings and/or in a structure ancillary to such dwellings, where they are satisfied the various development review criteria in the Official Plan can be met;
- The proposed Official Plan policies set out the maximum number of ARUs per lot depending on the type of residential uses and servicing levels. The Planning Act does not permit municipalities to prohibit the use of up to three residential units on a ‘parcel of urban residential land’ (i.e., residentially zoned lot in a fully serviced settlement). However, it is understood that reasonable criteria can still be established to protect public health and safety. Although the Planning Act no longer directs that municipalities must authorize the use of ARUs outside of fully serviced settlement areas, it was clear from previous consultation with Township staff, Councils and the public, that there is a desire to allow for ARUs outside of serviced settlements, where appropriate. Accordingly, the proposed draft OPA carries through the previously proposed policy direction in this regard, as follows:
  - up to two ARUs per lot (i.e. up to two ARUs units in the principal dwelling, or one ARU in an ancillary structure and one ARU in the principal dwelling) in a Serviced Village, subject to confirmation of available water and wastewater servicing capacity;

- one ARU per lot in a principal dwelling or in an ancillary structure in other settlements (i.e. Rural Clusters and Villages without full municipal services); and,
- up to two ARUs per lot (i.e. one in the principal dwelling and/or one in an ancillary structure) on an agricultural or rural residential lot. Agricultural lots that already contain more than one dwelling would still be limited to two ARUs in total. An ARU in an ancillary structure on a farm would be subject to approval by the Committee of Adjustment to ensure that the location of the unit and servicing are consistent with the applicable policies and allow for any necessary approval conditions to be applied.
- Criteria for all ARUs:
  - the ARUs shall be clearly secondary and subordinate to the principal dwelling on the lot and have a cumulative gross floor area no greater than 50% of the gross floor area of the principal dwelling on the lot, to a maximum of 100 m<sup>2</sup> (1076 ft<sup>2</sup>) on a lot in a settlement (Serviced Village, Village or Rural Cluster) and 140 m<sup>2</sup> (1506 ft<sup>2</sup>) on a lot outside of a settlement (agricultural and rural residential lots), except that the entire basement or cellar of the principal dwelling may be used, where permitted by zoning.  
  
Permitting greater gross floor area for ARUs outside of settlement areas is intended to provide additional size flexibility for such units on lots outside of settlements, given the generally larger lot sizes, fewer anticipated impacts to adjacent properties and municipal services, and the gross floor area currently permitted for garden suites (i.e. that may seek conversion to an ARU);
  - ARUs would not be permitted on a lot that already contains other accessory units/uses, including a boarding house, lodging house or group home, or a home occupation that is characterized by higher occupancy, including a bed and breakfast or a farm vacation rental. However, flexibility has been provided for the Townships to consider allowing ARUs in combination with garden suites or existing converted dwellings, provided the total number of additional dwelling units does not exceed the maximum permitted by the ARU policies;
  - centralized waste water and water supply and/or individual on-site water supply and sewage services are demonstrated to be adequate to serve the proposed use;
  - dwellings and lots are large enough to accommodate the ARU and provide for adequate parking, landscaping, stormwater management, and outdoor amenity areas;
  - any new buildings, additions and/or exterior alterations/features will generally maintain the built form and character of the principal dwelling and surrounding area;
  - principal dwelling must have direct, individual vehicular access to a public street and all ARUs shall generally use the same driveway and parking area;
  - there is adequate access from the front lot line and parking area to each ARU for both occupant use and emergency response;
  - to the extent feasible, existing trees and other desirable vegetation are preserved;
  - land use compatibility concerns will not be created or intensified;

- potential impacts on environmental and/or heritage resources and any environmental constraints or land use compatibility issues can be satisfactorily addressed; and,
- all other municipal requirements, such as servicing, stormwater management, waste management and emergency access, can be adequately addressed.
- Additional criteria for ARUs in a detached ancillary structure:
  - minimum lot area of 0.6 ha (1.48 ac) for lots without municipal wastewater services;

Note: There were questions from Council with respect to the need for this policy, given that private services are largely regulated by the Ontario Building Code (OBC). That said, it is Planning staff's understanding is that the OBC requirements do not take into consideration matters such as the potential cumulative impacts from multiple septic systems in a particular area and certain other context related considerations. Therefore, the minimum lot area requirement (which was established in consultation with local building officials) has been retained in the current draft policies to provide a reasonable minimum standard until such time as more detailed study is undertaken in that regard. Some site specific flexibility in the minimum lot area requirement could potentially be considered through a zone change or minor variance process, if supported by appropriate technical studies (i.e. hydrogeological study) and information.

- except on an agricultural lot, the ancillary structure must be located in the rear or interior side yard;
- the siting, design and orientation of the ancillary structure, parking area and outdoor amenity areas will allow for privacy for occupants of the ARU, principal dwelling and abutting residential properties and minimize visual impacts on adjacent residential uses; and,
- proposals outside of settlement areas must meet, or not further reduce, Minimum Distance Separation (MDS I) requirements;
- On a farm, the ancillary structure must be located within the established residential area on the lot (i.e. the area comprising the principal dwelling and accessory residential structures, driveway, outdoor amenity areas and individual on-site services). An ARU in a new ancillary building shall be located a maximum distance of 30 m (98 ft) from the principal dwelling and should share the individual on-site water supply and sewage services and utility services with the principal dwelling, where possible. The cumulative area of the lot utilized for residential purposes shall be minimized to the extent feasible and not exceed 0.8 ha (2 ac). Further, the location of the additional residential unit and/or new services shall not result in the removal of agricultural land from production and/or negatively impact the function of the farm or an adjacent farm;
- Zoning provisions for ARUs are to be implemented through a comprehensive Township initiated amendment to the Zoning by-law, except where otherwise specifically noted in the policies (i.e. where a zone change or minor variance process is required to confirm adequacy of servicing or address other review criteria). Other privately initiated amendments to the Zoning by-law provisions to permit an ARU will not generally be permitted;



- An ARU cannot be severed from the lot containing the principal dwelling and, where a surplus dwelling is proposed to be severed as a result of farm consolidation, any ARU must remain with the surplus dwelling; and,
- Area municipalities may use other tools and measures to assist with tracking and regulating ARUs including, but not limited to, registration and/or licensing requirements, design guidelines, property standards by-laws, etc.

Through the development of Official Plan policies, Planning staff also developed a discussion draft of the associated zoning provisions to illustrate how the policies could potentially be implemented locally and serve as a starting template for the necessary updates to the Township Zoning By-Laws. Through the local discussions on these draft provisions it was noted that many of the ARU policies related to compatibility with adjacent land uses could potentially be addressed by retaining or slightly amending the existing zoning provisions that apply to residential development, such as maximum lot coverage, minimum yards and setbacks, and maximum height and lot coverage for accessory structures.

The changes to the Planning Act through Bill 23 have now eliminated the ability for municipalities to use site plan control for residential development of 10 units or less. Therefore, additional zoning provisions regarding building form, setbacks, locations of windows and doors, and screening of entrances, parking and amenity areas may need to be considered to ensure compatibility of ARUs with adjacent land uses. However, given that such zoning provisions would apply broadly to ARUs rather than on a site by site basis, they may not be appropriate for all sites and could potentially increase the need for minor variances from such provisions. As such, the Townships may also wish to consider the need for other tools, such as licensing, registration and/or development standards/agreements to regulate the establishment of such units.

Outside of fully serviced settlements a site specific zoning amendment process, or approval by the Committee of Adjustment, may continue to be appropriate to ensure that matters such as servicing capacity are appropriately addressed. For Council's information, minor variances, and zoning amendments to permit ARUs within a principal dwelling outside of a fully serviced settlement, are not currently subject to third party appeals to the OLT. Therefore, if the Townships determine, through the development of comprehensive zoning by-law provisions, that a planning process is still a desirable alternative to permitting ARUs 'as of right', applicants would not generally be at risk of a third party appeal (i.e. from an opposing neighbour).

For the establishment of ARUs on lots located outside of a settlement area (i.e. in the prime agricultural area) there are additional Provincial and Official Plan policy requirements that must be taken into consideration. In particular, the need to ensure that the establishment of such units will not hinder or negatively impact agricultural operations; that prime agricultural areas are protected for long term agriculture; and that Minimum Distance Separation Formulae can be met. Accordingly, approval from the Committee of Adjustment for ARUs in ancillary structures on farms has been included in the draft policies as a process for Townships to review individual applications.

## Conclusions

Planning staff are of the opinion that the draft Official Plan Amendment 285 attached to this report as Attachment 1, provides a reasonable, effective and flexible approach for the implementation of ARUs within the rural areas of the County, having regard for matters of provincial interest and is consistent with Provincial legislation and policy, while also reflecting the interests of the County and the Townships. Planning staff are recommending that County Council approve the attached Official Plan Amendment 285 to provide the policy basis for ARUs within the rural areas of the County.

Once the proposed ARU policy amendments are approved by County Council, each of the Townships will be in a position to proceed with amendments to their respective Zoning By-Laws as required by the Planning Act and the proposed Official Plan policies. Further, each Township may also choose to consider various other local tools, such as registration or licensing, that may be deemed necessary or appropriate to provide the desired local direction and requirements for the establishment of ARUs. Planning staff will continue to assist the rural Townships with development of Zoning By-law provisions and other tools, as necessary, as well as facilitating further agency and public consultation.

## SIGNATURES

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### Report Author:

Original Signed By \_\_\_\_\_

Meghan House, MCIP, RPP  
Development Planner - Policy

### Report Author:

Original Signed By \_\_\_\_\_

Paul Michiels  
Manager of Planning Policy

### Departmental Approval:

Original Signed By \_\_\_\_\_

Gordon K. Hough, RPP  
Director of Community Planning

### Approved for submission:

Original Signed By \_\_\_\_\_

Benjamin R. Addley  
Interim Chief Administrative Officer

## **ATTACHMENTS**

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Attachment 1 - OPA 285

Attachment 2 - Tracked Changes Version of Amendment