

Municipality of Lakeshore – Report to Council

Growth and Sustainability

Planning Services



To: Mayor & Members of Council
From: Ryan Donally, Division Leader – Community Planning (acting)
Date: May 21, 2024
Subject: Additional Residential Units Zoning Regulations

Recommendation

Direct Administration to prepare a zoning by-law to regulate Additional Residential Units; and

Direct Administration to update section 6.2.1. (Modification 37) of the Lakeshore Official Plan Amendment No. 16 to permit Additional Residential Units without a site-specific zoning by-law amendment and advise the County of Essex, as presented at the June 18, 2024 Council meeting.

Strategic Objectives

This report supports the following Strategic Objectives:

3c) Modernizing and Enhancing Municipal Functions;

5b) Modernize Citizen-Centred Services – Bylaw Modernization (including a calendar of bylaw review and effective enforcement strategies/capabilities).

Background

The proposed zoning regulations for Additional Residential Units (ARUs) are being brought forward to ensure that parameters for the development of ARUs in both the residential settlement areas and agricultural areas of the municipality are established.

The report is in response to Bill 23, the *More Homes Built Faster Act, 2022* passed by the Provincial Government to permit three units per lot as of right in most existing residential areas and Council's direction related to the permitting of ARUs in Agriculture Zones.

Bill 23, the *More Homes Built Faster Act, 2022* came into force upon Royal Assent on November 28, 2022. Bill 23 supersedes local official plans and zoning province-wide on any parcel of land where residential uses are permitted in settlement areas with full municipal water and sewage services. The changes prohibit municipalities from applying minimum unit sizes or requiring more than one parking space in connection with these units, imposing development charges (regardless of unit size), or requiring parkland dedication or cash-in-lieu with any second or third units in the primary buildings.

At the February 6, 2024 Regular Council Meeting – Planning Act, through the Lakeshore Official Plan review, Lakeshore Council supported changes to Section 6.2.1. (Modification 37), Permitting ARUs in the Agriculture Area. Council supported a stand-alone building as an ARU to the primary unit subject to a Zoning By-law amendment amongst other criteria. In addition, Council supported a stand-alone building as an ARU to be approved on septic systems in other areas (e.g. Hamlets) subject to a Zoning By-law amendment amongst other criteria.

In the Official Plan policies, creating an ARU within an existing dwelling in the Agricultural Area or in other areas with private septic services (e.g. Hamlets) does not trigger a zoning by-law amendment.

The Official Plan update is not yet in-force.

Comments

Administration acknowledges the province's direction to permit ARUs as a way to create affordable rental housing. It is noted, however, that ARUs will be restricted in areas where there is not adequate municipal sewage and water. In areas of Lakeshore where there is adequate municipal sewage and water, the review of ARUs will occur through the Planning and Building Divisions, with input from the Engineering Division. ARUs are subject to the requirements of the Building Code and require a building permit prior to construction.

ARUS are also subject to the requirements of various commenting agencies including the Essex Region Conservation Authority (ERCA) or the Lower Thames Valley Conservation Authority (LTVCA). Lakeshore Building Division will review ARUs proposed in Conservation Authority Regulated Areas and seek comments from the CAs.

ARU Zoning Regulations

Appendix A – ARU Zoning Regulations Table consolidates Administration's recommended guidelines and regulations pertaining to ARUs within the Municipality. Current zoning for Accessory Residential ("Dwelling") Units is included in Lakeshore Zoning By-law, Section 6.3.

Currently, based on provincial policy, the ARU must be subservient to the primary dwelling unit. Many municipalities have passed regulations that further restrict the location of the units on the lot and the maximum gross floor area.

Many of the recommendations included in the proposed regulation table are redundant from previous presentations to Council. Information that was previously not presented to Council or are key variables that are often different for each unit are described below. ARUs that are proposed that do not fit within the Official Plan policies or the prescribed zoning regulations will be subject to the appropriate planning processes (e.g. a minor variance application).

Residential ARU - Detached

Size/Height:

- 6.5 metres in height (21.3 ft.) and not to exceed the height of the primary dwelling unit.
- Gross floor area (GFA) maximum of 120 square metres (approximately 1300 sq. ft.), and no greater than 50% of the primary dwelling unit.
- GFA is measured as per the Lakeshore Zoning By-law (exterior wall to exterior wall) for each floor.
- Total lot coverage of primary unit and ARU cannot exceed the prescribed lot coverage for the subject property.

Location/Setbacks:

- 1.5 metres from interior side and rear lot lines
- A two-storey ARU requires a 3 metre setback from interior side and rear lot lines
- Permitted in rear and interior side yards subject to current zoning regulations and setbacks.
- Not permitted in rear yards of properties abutting Lake St. Clair. If located in the side yard, the rear of the wall of the ARU cannot extend closer to the Lake than the primary residence.
- Must be within 50 metres of the primary dwelling and no closer than 3 metres.
- ARUs must be 3.0 metres or greater from any other accessory building or primary dwelling on the property.

Agriculture ARU – Detached

Size/Height:

- 7.5 metres in height (24.5 ft.) and not to exceed the height of the primary unit.
- GFA maximum of 140 square metres (approximately 1500 sq. ft.), and no greater than 50% of the primary dwelling unit.
- GFA is measured as per the Lakeshore Zoning By-law (exterior wall to exterior wall).
- Total lot coverage of primary unit and ARU cannot exceed the prescribed lot coverage for the subject property.

Location/Setbacks:

- 1.5 metres from interior side and rear lot lines
- A two-storey ARU requires a 3 metre setback from side and rear lot lines.
- Permitted in rear, side, and front yards subject to current zoning regulations and setbacks.
- Must be within 50 metres, and no closer than 3 metres, of primary dwelling.
- ARUs must be 3.0 metres from any other accessory building or primary dwelling on the property
- Not permitted in rear yards of properties abutting Lake St. Clair. If located in the side yard, the rear wall of the ARU cannot extend closer to the Lake than the primary residence.

Any requested variances from the regulations will require approval by the Committee of Adjustment subject to the minor variance process and tests.

Residential Zone includes any residential development area located in the primary, secondary, or hamlet settlement areas where single, semi-detached, or townhouse units are permitted. Agricultural Zone includes any residential building lots that are permitted to build a single detached dwelling.

Council previously provided direction that properties with Hamlet or Agriculture Designation required a site-specific rezoning to allow for confirmation of servicing, lot area, and frontage.

Primary/ARU Swap

Rarely, applicants may be requesting ARUs that are larger than the current primary unit. These may be slightly larger, or significantly larger. These instances are likely to occur on large lots, with smaller and older primary units.

Administration is recommending the ability for a “swap” of the current primary unit and the proposed ARU.

If the current primary unit fits within the definition and regulations of an ARU and the regulations are met with the proposal of the larger ARU, Administration recommends that the new ARU could be designated as the new primary unit, and the current primary unit be designated as the ARU. All zoning and setbacks must be satisfied for both units prior to consideration by Administration. All applicable charges, including development charges, will apply to the new “primary unit” that is being proposed.

Red-Tape Reduction for ARUs

Administration is recommending that Council allow the permitting and approvals of ARUs in the residential areas to be completed by the Chief Building Official. Administration is confident that the regulations outlined in the Official Plan, forthcoming by-law, and Ontario Building Code protect the interests of the Municipality and its residents.

As noted above, and as outlined in the presentation to Council on February 6, 2024, Council provided direction to require that ARUs in other designations not identified as Residential Zones to be subject to site-specific rezoning. Lakeshore’s Zoning By-law includes the following zones that permit single, semi, or other low-density residential developments: Hamlet Residential (HR), Commercial Area (CA), Recreational/Tourist Commercial (CT), Mixed-Use (MU), Agriculture (A), and Mixed-Use (MU).

The communities most affected by the required site-specific zoning amendment (excluding Agriculture Zoning) include:

- Belle River (specifically Notre Dame) (CA)
- Woodslee (HR)
- St. Joachim (HR)
- Ruscom (HR)
- Staples (HR)
- Deerbook (HR)
- Stoney Point (specifically Tecumseh Road) (CA)
- CR 22 Corridor from Belle River to Manning (MU)

Volume and Processing Time

Lakeshore Planning and Building Divisions have been receiving approximately 3-5 inquiries per week related to ARUs. Anecdotal evidence suggests that about half of these inquiries pertain to detached ARUs in agriculture or rural areas.

The process for a site-specific rezoning takes a minimum of 3-4 months from initial inquiry to Council approval. Further, the minimum cost for the applicant is \$2750 with the assumption that the works required for rezoning are completed by the applicant themselves as opposed to external consultants.

Steps:

Step	Time	Cost
Pre-Consultation	2-3 weeks post initial contact	\$250
Planning Application	2+ weeks post Pre-Consultation (on applicant’s schedule)	<p>\$2500 for Minor Zoning Amendment.</p> <p>The definition of ARUs must be added as a Minor Zoning Amendment.</p> <p>Potential private consulting fees for site/concept plan</p>

Step	Time	Cost
Circulation(s) for Comment/ Reviews	4-6 weeks per circulation (potential multiple circulations)	Potential consulting fees for revisions
Council Report Completion	Completed 4 weeks pre-Council Meeting	
Public Notice	20 days advance of Public Meeting	
Council Meeting	Fixed-dates	
Public Appeal	20 days	

Assuming two of every five applicants require a rezoning, Community Planning will be attempting to present four or more site-specific rezonings at each Regular Council meeting. Further, with an approximate four to six-month timeline for the rezoning process, there may be 30 to 40 files being actively managed at any given time throughout the process. This timeline may be extended beyond a four-month period based on backlog of applications and the seasonality of building requests.

The volume of applications noted above is similar to the amount of volume currently being managed by the Planner I. This is a full-time role that is dedicated 100% to Committee of Adjustment work. This position is already working at or above full-capacity in handling the volume of consent and minor variance requests.

By remaining consistent with the requirement of a zoning by-law amendment for non-primary residential areas, the role of Planner II will likely be consumed with the amount of rezonings that are required to be brought to Council. This will create a backlog of other work that is generally oriented towards development.

With this volume, and an unchanged delegated authority for the Chief Building Official (CBO) to approve all ARU applications, a dedicated staff member is required to handle the volume. This role would be consistent with the rate of Planner I, as outlined in the collective agreement. It would be recommended that this is a one-year contract role that can be reconsidered after one year as the volume of applications may decrease after an initial rush.

Should Council be satisfied that ARU approvals rest with the CBO through the Building Permit process, Administration believes that a great majority of the applications will be within the Official Plan criteria and the prescribed Zoning regulations. The CBO and the Building Division will actively work with the applicant to fit within the regulations, as opposed to seeking variances from the Committee of Adjustment.

Review through the Building Permit process allows for the most streamlined service delivery to the applicant, the most efficient use of Administration’s time, and the most efficient use of Council’s time at the regular Council Meetings.

Municipal Comparators

Administration has compiled a table of municipal comparators that can be reviewed in Appendix B – ARU Municipal Comparator Table. Council will note that there is variability between how each municipality considers ARUs. Administration’s recommendation is generally consistent with neighboring municipalities; however, in some instances the regulations are slightly more relaxed.

Financial Impacts

Building Permit charges applicable to detached ARUs are calculated at current per square foot rate as prescribed in the User Fees (currently \$1.39 per square foot.) Pending Council direction, planning application fees may also be received.

Revenue estimations for building permit fees are expected to be approximately \$100,000.

Development Charges and Parkland Dedication Fees are not applicable for ARUs as mandated by the Province.

Attachments

Appendix A – ARU Zoning Regulations Table

Appendix B – ARU Municipal Comparator Table

Report Approval Details

Document Title:	Additional Residential Units Zoning Regulations.docx
Attachments:	- Appendix A – ARU Zoning Regulations Table.docx - Appendix B – ARU Municipal Comparator Table.docx
Final Approval Date:	Jun 5, 2024

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

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Submitted by Tammie Ryall

Approved by the Corporate Leadership Team