

# Municipality of Lakeshore – Report to Council

## Growth and Sustainability

### Planning Services



**To:** Mayor and Members of Council  
**From:** Ryan Donally, Chief Growth Officer  
**Date:** August 21, 2024  
**Subject:** Additional Residential Units Zoning By-law

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### Recommendation

Approve Zoning By-law Amendment ZBA-80-2024 to amend Zoning By-law 2-2012, as amended, to include regulations for Additional Residential Units;  
Direct the Clerk to read By-law 80-2024 during the Consideration of By-laws; and  
Direct Administration to update Section 6.2.1 (t) and Section 4.3.1.4.1 of the Lakeshore Official Plan to align with the Additional Residential Units zoning amendments, through modifications to Official Plan Amendment No. 16, and advise the County of Essex, all as presented at the September 10, 2024 Council meeting.

### Strategic Objectives

3c) Modernizing and Enhancing Municipal Functions - Continue investment in modernized services, including the integration of current best practices and automation, by engaging in service transformation and process mapping

### Background

At the June 18, 2024 Special Council Meeting, Council passed resolution #216-06-2024:

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

Direct Administration to update section 6.2.1. (Modification 37) and section 4.3.1.5.1g) 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.

The following report and attachments are resultant from the direction provided.

In November 2022, the Ontario legislature passed the “More Homes Built Faster Act”, Bill 23. As a result, the *Planning Act* was amended to permit, as-of-right, up to three residential units per property. This may include up to two additional units in a single detached, semi-detached, or townhouse dwelling, or one in the main dwelling and one in an ancillary building. These provincial requirements supersede local official plans and by-laws and apply to any parcel of “urban residential land”, which is defined to mean a residential lot in an area of settlement that is serviced by municipal water and sewage services. The changes also prohibit municipalities from applying minimum floor area sizes or requiring more than one parking space per additional residential unit (ARU). Additionally, Bill 23 amended the *Development Charges Act* to exempt ARUs from development charges, regardless of unit size.

The Official Plan review for the Municipality of Lakeshore was adopted as Official Plan Amendment No. 16 by the Council of the Municipality of Lakeshore in March 2021. This draft Plan, which is not yet in force, lists “second dwelling unit” as a permitted use in the Residential and Hamlet designations, in response to earlier provincial legislation (Bill 108).

As part of the Official Plan review and approval process, the County of Essex Planning Department, in consultation with Lakeshore Community Planning, proposed 70 modifications to OPA-16. Several of these modifications serve to bring the Official Plan into conformity with the new *Planning Act* provisions created through Bill 23. The updated Official Plan amendment (OPA) would permit an attached ARU [within a single detached dwelling] as-of-right. On February 6, 2024, Council endorsed the proposed modifications to OPA-16 as presented (Appendix B).

Subsequently, at the June 18, 2024 meeting, Council directed Administration to prepare a Zoning By-law amendment (ZBA) to regulate Additional Residential Units. Council indicated its support for the regulations proposed by Administration. Council also directed Administration to notify the County of Essex of further changes to Official Plan Amendment No. 16 to permit detached ARUs in the Agricultural designation. In addition to this change, Administration is recommending updating section 4.3.1.4.1 to permit ARUs on private septic systems without a site-specific ZBA. The proposed modifications can be found in Appendix A.

On August 20 an updated Provincial Planning Statement was released by the province which will come into effect on October 20, 2024 to replace the existing Provincial Policy Statement. Among other changes, the new PPS requires that two ARUs be permitted on a parcel of land in prime agricultural areas. These policies and Planning Act excerpts can be found in Appendix C for reference.

## **Comments**

### **Zoning By-law**

The Lakeshore Zoning By-law (By-law 2-2012) currently defines “secondary dwelling unit” as a second unit constructed within an existing single detached dwelling. To align with the Planning Act and provincial policy, and with Amendment no. 16 to the

Lakeshore Official Plan, as modified, it is recommended that the term “second dwelling unit” be replaced with “additional residential unit”, and that the definition be expanded to include semi-detached dwellings, townhouse dwellings, and accessory buildings.

The proposed amendment will permit ARUs in the following zones:

- Residential – Low Density (R1)
- Residential – Medium Density (R2)
- Residential Waterfront – Watercourse (RW1)
- Residential Waterfront – Lake St. Clair (RW2)
- Hamlet Residential (HR)
- Central Area (CA)
- Mixed Use (MU)
- Agriculture (A)
- Urban Reserve (UR)

A maximum of two ARUs per lot will be permitted, for a total of three dwelling units per lot. This may include two attached ARUs, or one attached and one detached. The proposed regulations specify that a detached ARU cannot be combined with a garden suite or mobile home on the same lot, unless the garden suite or mobile home is used as farm worker housing. Furthermore, because the intent of permitting ARUs is to expand the permanent housing stock for full-time residents, they will not be permitted in association with seasonal dwellings, which are not built to accommodate winter occupancy.

By-law 80-2024 includes general provisions for all additional residential units, to be regulated in a new Subsection 6.7. The provisions state that ARUs must be serviced by a municipal water supply but can be serviced by either municipal or private sewage systems. Private septic systems will be subject to the Municipality’s approval through the building permit process and will only be permitted where full municipal services do not exist. The by-law also specifies that where ARUs are serviced by municipal sanitary services, the sanitary supply must have sufficient capacity to accommodate the increased demand. It also states that ARUs must use the same connection to municipal services as the main dwelling.

Each ARU must have its own exterior entrance, but this entrance may not be on a street-facing elevation or façade. The gross floor area (GFA) of all ARUs will be limited to 50% of the GFA of the primary dwelling unit (or an entire basement apartment). These restrictions will ensure that the overall appearance of the building as a single detached, semi-detached or townhouse dwelling is maintained.

Administration is recommending that the maximum GFA for accessory buildings with ARUs be increased to 120 m<sup>2</sup> (approximately 1,292 ft<sup>2</sup>) in residential and mixed-use zones, or 140 m<sup>2</sup> (1,507 ft<sup>2</sup>) in Agriculture zones. The Zoning By-law currently permits accessory buildings to have a maximum GFA of 55 m<sup>2</sup> (approximately 592 ft<sup>2</sup>) in residential zones, with no limit in other zones.

Properties with ARUs will continue to be subject to the maximum total lot coverage for the applicable zone, as well as the maximum lot coverage for accessory buildings of

15% in all zones. This will ensure that the size of an ARU is proportionate to the size of its lot, and that the neighbourhood character of low-density areas is maintained.

By-law 80-2024 will permit accessory buildings to exceed the maximum height of 5.0 m when they contain an ARU, up to 6.5 metres in residential and mixed-use zones or 7.5 metres in Agriculture zones. This is recommended to allow the construction of ARUs in the second storey of detached garages. Notwithstanding this increased height, detached ARUs will be prohibited from exceeding the height of the main dwelling in order to maintain their appearance as an accessory use.

Detached ARUs will be subject to the same setback requirements as other accessory buildings, with two exceptions: 1) when an accessory building has a second-storey ARU and abuts a rear laneway, the rear yard setback will be reduced to 0.6 m; and 2) when an ARU has a second-storey window facing a property line, the setback will be increased to 3 m to preserve neighbours' privacy.

The minimum parking requirements in subsection 6.41.1 of the Zoning By-law are proposed to be changed to conform with the *Planning Act*, which now prohibits municipalities from requiring more than one parking space per ARU.

Finally, it is recommended that references to “secondary dwelling units” and “converted dwellings” be deleted from the Zoning By-law. A “converted dwelling” is defined to mean a single detached house that has been converted to contain ARUs. These uses will be redefined as “additional residential units” and will consequently be subject to the regulations discussed above, such as the maximum GFA.

### **Provincial Policy Statement (2020) and Provincial Planning Statement (2024)**

Administration's recommendations are aligned with both the 2020 Provincial Policy Statement and the recently adopted Provincial Planning Statement, which will replace the former on October 20.

Section 1.4.3 of the 2020 PPS states that planning authorities “shall provide for an appropriate range and mix of housing options and densities” by permitting and facilitating “all types of residential intensification, including additional residential units”. The 2020 PPS also states in section 1.4.3 that planning authorities must direct residential development towards locations where appropriate levels of infrastructure are or will be available. By-law 80-2024 supports this by directing infill development to water service areas.

Both the 2020 (section 1.1.4) and 2024 PPS (section 2.5.1) indicate that “healthy, integrated and viable rural areas” should be supported by accommodating an appropriate range and mix of housing in rural settlement areas. Furthermore, the 2024 PPS includes policies requiring planning authorities to facilitate all types of residential intensification, including new housing options in previously developed areas (section 2.2.1). By-law 80-2024 promotes residential intensification in built-up areas by enabling a broader range of housing types, while encouraging compact built form and efficient use of existing infrastructure.

The recently adopted Provincial Policy Statement (2024) establishes new policies regarding land use in prime agricultural areas that conflict with Council's previous direction. At the June 18, 2024 Special Council Meeting, Council indicated its support for the proposed regulations to permit a maximum of one ARU per lot in agriculture zones, whereas two ARUs per lot would be permitted in other zones. However, section 4.3.2.5 of the new PPS states: "Where a residential dwelling is permitted on a lot in a prime agricultural area, up to two additional residential units shall be permitted in accordance with provincial guidance".

Furthermore, Administration's report to Council dated May 21 2024 indicated that an ARU would not be permitted in combination with a secondary farm dwelling. However, the new PPS clarifies that, "the two additional residential units that are permitted on a lot in a prime agricultural area in accordance with policy 4.3.2.5 are in addition to farm worker housing permitted as an agricultural use." Administration has thus revised By-law 80-2024 to conform with the new Provincial Planning Statement by allowing two ARUs per lot in all zones where they are a permitted use and allowing detached ARUs in combination with farm worker housing.

### **County of Essex Official Plan**

The proposed regulations are in conformity with the 2024 Draft Official Plan for the County of Essex, which is currently in a public consultation phase. Section 4.B.3.9 states, "The County supports Additional Residential Units within all single detached, semi-detached, and townhouse dwellings, as well as detached ancillary structures located in residential areas in Settlement Areas, subject to appropriate sewer and water services." Additionally, the Draft County Official Plan lists additional residential units as a permitted use in the Agricultural designation.

The County of Essex Draft Official Plan includes policies requiring municipalities to integrate gentle density and diverse housing options in settlement areas through the redevelopment of existing neighbourhoods. The adoption of By-law 80-2024 will enable the creation of "missing middle" housing, thus contributing to the density targets for Lakeshore which are set in the County of Essex Official Plan. The current County of Essex Official Plan, which was adopted in 2014, permits only one ARU per dwelling, which contravenes the *Planning Act* and the 2024 Provincial Planning Statement.

### **Lakeshore Official Plan**

The current Lakeshore Official Plan does not permit ARUs; as such, it contravenes the *Planning Act*. However, the updated Draft Official Plan (Official Plan Amendment no. 16) contains provisions related to ARUs to align with provincial direction. Subsection 4.3.1.5.1 of OPA-16 states, "The Municipality will facilitate the provision of affordable housing by accommodating additional residential units in accordance with the provisions outlined in the Municipality's Zoning By-Law, while ensuring that additional residential units appropriately suit the character of the surrounding neighbourhood and are constructed in accordance with any applicable urban design policies and/or guidelines."

By-law 80-2024 will create semantic consistency between the Zoning By-law and Draft Official Plan, as Modification #70 to OPA-16 replaced all references to “second dwelling unit” with “additional residential unit”.

OPA-16 explicitly permits ARUs in the Residential, Hamlet, Urban Fringe and Agricultural designations (Modification #37). In the Residential Waterfront and Mixed Use designations, ARUs are not listed as a permitted use; however, they would be permitted through policies that state, “Uses accessory to any of the permitted uses in the [Waterfront Residential/Mixed Use] Designation will be permitted”.

Subsection 4.3.1.4.1 g) of OPA-16 states “Full municipal sanitary sewage and water services shall be provided, to the satisfaction of the approval authority having jurisdiction, and in accordance with the policies of Section 7.3. Additional residential units proposed with private water and sewer services may be considered on a case-by-case basis through a site-specific rezoning.” Direction was given by Council to allow for both attached and detached ARUs in areas where full servicing does not exist. Therefore, it is recommended that this policy be replaced by the following: “The additional residential unit shall be serviced by adequate municipal water supply, and full municipal sanitary sewer services. Private on-site sewage services are permitted where no municipal services exist and are installed in accordance with the Ontario Building Code.

Subsection 6.2.1 t) of OPA-16 (Modification 37) states that stand-alone (detached) ARUs will only be permitted in the Agricultural designation through a site-specific ZBA. As discussed and supported at the June 18, 2024 Regular Council Meeting, subsection 6.2.1 is amended to permit stand-alone ARUs as-of-right.

## **Public Engagement**

Notice was given to agencies and the general public as required under the provisions of the *Planning Act* and associated regulations. As of the writing of this report, no comments have been received from any resident or public body.

As per subsections 17(24.1), and 34(19.1) of the *Planning Act*, there are no appeal rights with respect to policies in an Official Plan or amendments to a Zoning Bylaw that are adopted for the purpose of permitting ARUs in accordance with the Act.

## **Financial Impacts**

The provincial direction to allow three units as-of-right and resultant increase in new households in existing dwellings and accessory structures sets the stage to provide rental housing options for residents in various life stages (e.g. young adults, seniors, single parent families). However, it does have the potential to increase the use of municipal infrastructure services including water, sanitary treatment capacity, sanitary conveyance, and general infrastructure. Furthermore, traditional municipal services such as parks, recreation, and general municipal service operations will be affected by the increased population levels. The exact uptake of the increase in households and

populations through ARUs is difficult to predict. However, Administration will track the building permit activity to monitor the impact over time.

Additional revenue for the municipality will be generated through building permit fees, water and sewage rates, and the increase of property tax because of higher assessed values of multi-unit dwellings. Development charges, which typically are the primary source for repayment of development-related infrastructure, cannot be collected due to the legislative changes.

### **Attachments**

Appendix A – Draft Decision and Modifications to Lakeshore Adopted Official Plan Amendment – September 2024 Final Proposed Modifications

Appendix B – Draft Decision and Modifications to Lakeshore Adopted Official Plan Amendment – January 2024 Final Proposed Modifications

Appendix C – Planning Act and Provincial Planning Statement, 2024