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OZ-8053
Planner: L. Maitland

TO:	CHAIR AND MEMBERS - PLANNING & ENVIRONMENT COMMITTEE
FROM:	JOHN M. FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER
SUBJECT:	CITY OF LONDON CITY WIDE OFFICIAL PLAN AND ZONING BY-LAW AMENDMENTS - SECONDARY DWELLING UNITS MEETING ON NOVEMBER 26, 2015

RECOMMENDATION

That, on the recommendation of the Managing Director, Planning and City Planner, with respect to the application of the City of London relating to an Official Plan Amendment to introduce new city-wide policies related to secondary dwelling units and for a Zoning By-law Amendment to introduce regulations related to secondary dwelling units, the following actions **BE TAKEN**:

- a) The proposed by-law attached hereto as Appendix "A" **BE INTRODUCED** at the Municipal Council meeting on December 8, 2015 to amend the City of London Official Plan to update secondary dwelling unit polices in accordance with changes to the *Planning Act*.
- b) The proposed by-law attached hereto as Appendix "B" **BE INTRODUCED** at the Municipal Council meeting on December 8, 2015 to amend the City of London Zoning By-law Z.-1, in conformity with the Official Plan as amended in part (a) above, to provide secondary dwelling unit regulations in accordance with changes to the *Planning Act*.
- c) Staff **BE DIRECTED** to implement required changes to the Residential Rental Unit Licensing By-law to address Secondary Dwelling Unit uses.
- d) The policies for Secondary Dwelling Units **BE INCORPORATED** into the final draft of The London Plan

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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Secondary Dwelling Unit Policies and Provisions – PEC June 18, 2012
 Secondary Dwelling Units – PEC April 9, 2013
 Secondary Dwelling Units – PEC August 20, 2013
 City Wide Official Plan and Zoning By-Law Amendments – Secondary Dwelling Units - PEC November 26, 2013

ANALYSIS

Background

The *Planning Act*, through changes made by Bill 140 *Strong Communities through Affordable Housing Act, 2011*, requires municipalities to update their Official Plan policies and regulations to provide for secondary dwelling units. The City of London Official Plan currently provides for secondary dwelling units within single and semi-detached dwellings subject to conditions. Now with changes made by the *Strong Communities through Affordable Housing Act, 2011*, the Official Plan must include polices for secondary dwelling units as-of-right within townhouse and accessory structures in addition to single and semi-detached dwellings.

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Secondary dwelling units provide residential intensification through “invisible density”, and provide a viable affordable housing option. These units are self-contained units within existing buildings, or they may be integrated into new residential development. These units may also be incorporated as a separate structure on the same lot as the primary dwelling unit. Secondary dwelling units are intended to be ancillary and subordinate to the primary dwelling unit and should not be readily visible from the street. Secondary dwelling units have been identified by the Province through these legislative changes to the *Planning Act* as a way to increase the supply of affordable housing. The intent is that this form of residential intensification will minimize land use impacts and retain neighbourhood character.

Secondary dwelling units provide an additional tool in providing for a range and mix of affordable housing within the City of London. The current policies of the Official Plan provide for a broad range of residential dwelling types. The proposed policies are intended to facilitate the establishment of, and increase the opportunities for, secondary dwellings as affordable housing options in London. This type of housing will provide homeowners with the opportunity to create a secondary dwelling to assist in the costs of homeownership and create affordable, secondary dwelling rental units.

Previous Council Direction

On December 3, 2013 Municipal Council resolved that the Official Plan amendments and Zoning By-law amendments be referred back to staff to: provide further clarification; receive advice from the London Housing Advisory Committee; and, received advice from the Town & Gown Committee.

Comments Received

As a result of the previous council direction staff addresses the London Housing Advisory Committee and The Town & Gown Committee in 2014 to garner comments on the proposed amendments regarding secondary dwelling units. Both committees provided commentary.

The London Housing Advisory Committee at its February 11, 2014 session requested that staff consider:

- removal of the Near Campus Neighbourhood restriction based on the criteria regarding owner occupancy is maintained (it being noted that submission from both Western University and Fanshawe College had been received by the Planning Department indicating that they were not opposed to the removal of this restriction, it being further noted that the Near-Campus Neighbourhood area is a significant area of the city);
- secondary units established between 1995 and 2014 and meeting all current building and safety codes be exempt from any new, more restrictive policies and/or by-law limitations; and,
- the removal of the additional parking space requirement.

The Town & Gown Committee at its May 8, 2014 Meeting received the report from Planning regarding Secondary Dwelling Units. They further resolved that the communication they received be referred to civic administration, including:

- a letter of support for the Near-Campus Neighbourhood restriction on secondary dwelling units from S. Levin of the Orchard Park Sherwood Forest Ratepayers;
- a presentation from P. Beechey of the London Neighbourhood Community Association opposing lodging houses in R1 zones;
- a letter from E. Simms of the London Property Management Association opposing the London Neighbourhood Community Association and offering support for existing City of London policy; and,
- a letter and package from J. Schlemmer of Neighbourhood Legal Services suggesting that those “granny flats” built between 1995 and 2014 be “grandfathered”, so as to be considered legal where such units meet health and safety regulations.

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The issues raised include the “Grandfathering” of secondary dwelling units built between 1995 and 2014 in advance of the legislation and Zoning By-law amendment. The owner-occupation requirement was questioned in letters received by planning. The restrictions proposed for secondary dwelling units within the Near-Campus Neighbourhood Area was questioned after both Western University and Fanshawe College had indicated they would be unopposed to the removal of this restriction. Both the requirements around licensing and an additional parking spot for units were raised as issues. The issues brought up through the two committees are addressed below.

“Grandfathering” Existing Units

Amongst the concerns raised was the method whereby secondary dwelling units built prior to the adoption of the attached policies and regulations would become legal. One suggestion was that secondary dwelling units built between 1995 and the adoption of the attached policies and regulations would be considered legal upon adoption of the attached policies and regulations.

The 1995 amendments refer to two-unit buildings built prior to 1995, not secondary dwelling units built since. The two-unit building policies, Section 76(1) of the Planning Act, were put in place to ensure that two-unit buildings built before 1995 maintain their legal status. The Act reads:

If on November 16, 1995, a detached house, semi-detached house or row house was used or occupied as two residential units, section 1, subsections 16 (2), (3) and (4), 31 (3.1) and (3.2), 35 (1), (3) and (4) and 51 (28), (29) and (30) of this Act and Ontario Regulation 384/94, as they read on November 15, 1995, continue to apply to that house.

This clause is still in effect in the Planning Act. Under Regulation 384/94, in effect November 15, 1995 (as filed June 23, 1994) subsection 6(2) provides direction for planning documents. It reads:

No planning document shall prohibit,

- a) exterior alterations required for the installation of a second residential unit in a house; or*
- b) the alteration of a house containing two residential units,*

unless, as a result of those alterations the house would contravene standards in the planning document which relate to building envelope of the house.

This regulation indicates that those two unit-buildings developed before 1995, in accordance with planning documents, will continue to be recognized as legal. The City has no legal basis to discontinue these uses.

The Strong Communities through Affordable Housing Act, 2011(Bill 140) and the associated amendment to the Planning Act did not include provisions like those noted above to “legalize” those secondary dwelling units built between 1995 and the present. The Ministry of Municipal Affairs and Housing has noted specifically that the Bill 140 “changes do not “grandfather” any existing second units that do not meet applicable laws”. As such those units built between 1995 and the adoption of the attached policies and regulations are not exempted from meeting the policies and regulations proposed.

No policy is proposed to exempt “existing” secondary units. This will ensure those units built prior to the establishment of the attached policies and regulations are brought into compliance with applicable regulations. Upon the adoption of these policy and zoning by-law amendments

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to permit secondary dwelling units, property owners would be required to ensure their properties meet the requirements set out in the policy and associated zoning requirements. This would ensure that any units previously constructed were built in accordance with the Ontario Building Code and the Fire Code for the safety of current and future residents.

It is noteworthy that those units built prior to the adoption of the attached policies and regulations are able to avail of the minor variance process. Secondary dwelling units that do not meet the proposed zoning requirements, including parking or the location of their entrance to the secondary dwelling unit could receive variances to legalize the units should the Committee of Adjustment deem it appropriate. This presents the possibility of legalizing secondary dwelling units which fail to meet the requirements of the attached policies and regulations in their entirety. This also ensures that all secondary dwelling units are in accordance with current Building Code and Fire Code requirements and subject to the same planning policy framework.

Owner-Occupation

There was concern raised previously about the proposed policy requirement that secondary units were to be located within buildings which are owner-occupied. This limitation is in place to reflect the intention of the provincial legislation: to create affordable home ownership and affordable rental units. The majority of Ontario municipalities reviewed during the development of the proposed policy contextualized the new legislation as supporting homeownership.

Other municipalities have recognized the distinction between owner-occupied buildings with secondary dwelling units and investment properties as demonstrated by the approaches detailed in the table below.

Municipality	Approach
City of Kingston	The City of Kingston does not offer incentives to support secondary dwelling units in investment properties while they do provide support for the creation of these units in owner-occupied buildings.
Town of Innisfil	The Town of Innisfil restricts the permission for secondary dwelling units solely to those buildings which are owner-occupied.
City of Mississauga	The City of Mississauga requires that investment properties which have secondary dwelling units to enter a minor variance process as opposed to owner-occupied units which are granted secondary dwelling units as-of-right.

The legislation was intended as an instrument to promote affordable home ownership and affordable housing options. As pointed out above the Provincial intent, understood by other municipalities as well, is to provide for secondary dwelling units to support homeownership. Each example noted above has, through policy, delineated the difference between owner-occupied dwellings and investment properties. Two-unit investment properties are permitted in the Official Plan and Zoning By-law through policies that allow for duplexes and semi-detached dwellings.

The proposed limitation of secondary dwelling units to owner-occupied primary dwelling units is not dissimilar to other limitations already contained within the City’s Official Plan and Zoning by-law. For example, the ability to avail of the home occupation as a permitted use is dependent on the person utilizing the permission residing in the dwelling unit. In these instances the location of the owner is integral to defining the use.

Additional Parking Space

The additional parking space requirement has been removed. As secondary dwelling units are proposed with the stated intent to create affordable housing the requirement for a parking space was deemed unnecessarily restrictive to their creation. A tenant within the secondary dwelling unit may have a vehicle and if so should seek out rental opportunities where a parking space is available for that vehicle. A secondary dwelling unit may be used to house an ailing family

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member or other tenant who does not use a vehicle, the proposed policies and regulations would permit the owner of the property to create a secondary dwelling unit to house them without additional regulatory demands. Policies have been provided to ensure that should a secondary dwelling unit owner wish to create additional parking for the unit that parking would be in accordance with the character of the neighbourhood. These policies discourage minor variances which result in the alteration of front yards in particular.

Near-Campus Neighbourhood Restrictions

The proposed amendments limit the possible location of secondary dwelling units to the portion of the city outside of the Near-Campus Neighbourhood area. The Strong Communities through Affordable Housing Act, 2011 (Bill 140) allows for spatial restrictions on the location of secondary dwelling units. The City of Kingston has taken a similar approach with the City divided into three sections, where secondary dwelling units are allowed, as-of-right; after a holding provision is removed; or, through a Zoning-By-law amendment in accordance with infill policies. The proposed policy for London takes advantage of this portion of the act to ensure that the recent policy amendments to address intensification in the Near-Campus Neighbourhood area can be implemented as intended.

The Near-Campus Neighbourhood policy purposefully addresses intensification in this specific area of the City given its existing significantly higher level of intensification. The proportion of rental units within the Near-Campus Neighbourhoods (48.4%) is much greater than the City as a whole (37.1%). The Near-Campus Neighbourhoods already have greater levels of intensification through other forms of housing including duplexes, triplexes and fourplexes. The decision to exclude secondary dwelling units from the Near-Campus Neighbourhoods is made within the context of the significant recent work already having been completed to mitigate and prevent over-intensification in the area.

Dwelling Type and Tenure by Location

	City-wide	Near-Campus	Near-Campus as a Percentage of City-wide
Total Occupied Dwellings	153,630	41,710	27.1%
<i>Single-Detached</i>	<i>77,865</i>	<i>17,750</i>	<i>22.8%</i>
<i>Semi-Detached</i>	<i>5,860</i>	<i>1,650</i>	<i>28.2%</i>
<i>Row House</i>	<i>19,085</i>	<i>4,765</i>	<i>25.0%</i>
Duplex	3,965	1,250	31.5%
Apartment < 5 storeys	15,615	3,360	21.5%
Apartment ≥ 5 storeys	30,935	12,910	41.7%
# of Owned Dwellings	96,715	21,530	22.3%
Owned as % of total	63.0%	51.6%	
# of Rented Dwellings	56,920	20,200	35.5%
Rented as % of total	37.1%	48.4%	

*For statistical purposes the Near-Campus Neighbourhoods were represented by an aggregation of other data as demonstrated in Appendix C (Data: Statistics Canada National Household Survey 2011 by way of City of London Neighbourhood Profiles).

As the table above indicates the Near-Campus Neighbourhoods have a rental/ownership mix that is distinct from the City as a whole. Whereas 63.0% of residential units in the City are owner-occupied, only 51.6% of residential units in the Near-Campus are owner-occupied, with a much greater portion available as rental units. The mix includes a higher proportion of semi-detached, duplex and high-rise apartments (apartment ≥ 5 storeys) in the Near-Campus Neighbourhoods.

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Of the 102,810 dwellings which could potentially include a secondary dwelling unit (single-detached, semi-detached and row houses) within the City as a whole only 24,165 would be excluded by this policy as those units located within the near-campus neighbourhood area. This leaves an overwhelming majority, 78,645 dwellings within the city able to take advantage of the new policy. Significant opportunity across the City remains for the creation of potential secondary dwelling units.

Licensing

The previously presented (November 2013) draft Zoning By-law amendment directed that secondary dwelling units were to be licensed through the City of London's Residential Rental Unit Licensing By-law. Although the intention is still that secondary dwelling units be licensed it has been determined that, the Zoning By-law cannot require this. The Planning Act does not empower the City to pass a zoning by-law which requires residential licensing on units. For this reason the licensing requirement has been removed from the proposed Zoning by-law amendment, but remains in the proposed Official Plan policy. This report does seek direction for amendment of the Residential Rental Unit Licensing By-law to address secondary dwelling units and ensure that the licensing of these units proceeds.

Proposed Amendments

Official Plan amendments proposed add secondary dwelling units to the list of permitted uses in Low Density Residential, Multi Family Medium Density Residential and Multi Family High Density Residential designations, when in association with an approved primary dwelling unit.

The Official Plan policies proposed for secondary dwelling units are as follows:

Secondary dwelling units may be permitted within a single detached dwelling, semi-detached dwelling or a street townhouse dwelling. The secondary dwelling unit must be clearly ancillary and subordinate to the primary residential use and may be permitted where all of the following criteria are met:

- i. Secondary dwelling units shall be permitted where the primary unit is owner occupied;*
- ii. A maximum of one (1) secondary dwelling unit per primary dwelling unit is permitted, and must be located on the same lot as the primary dwelling unit;*
- iii. Secondary dwelling units shall not be permitted within the Near-Campus Neighbourhood Area as defined by Figure 3-1 of this Plan;*
- iv. A Secondary dwelling unit shall be limited to a maximum of one (1) bedroom, and the total number of bedrooms of both the primary dwelling unit and secondary dwelling unit shall not be greater than five (5) for a single detached dwelling and not be greater than three (3) for a semi-detached or street townhouse dwelling.*
- v. Secondary dwelling units shall be required to be licensed pursuant to the Residential Rental Unit Licensing By-law;*
- vi. The gross floor area of a secondary dwelling unit shall not be greater than 40% of the combined total gross floor area of both the primary residential dwelling unit and secondary dwelling unit;*
- vii. Exterior alterations to the primary dwelling unit to provide for secondary dwelling units shall not be permitted for front or exterior side yards. To protect neighbourhood character, access to secondary dwelling units may be through existing entrances or new entrances located in rear or interior side yards;*
- viii. Any zoning amendments or variances to provide for parking in excess of the minimum parking required for the primary dwelling unit, including any request for boulevard parking, front yard parking or changes to landscaped open space regulations to support parking for a secondary dwelling unit, shall be discouraged. A new additional driveway is not permitted to provide for the secondary dwelling unit;*

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- ix. *Minor variances to permit front yard parking shall not be supported where the proposed new development, expanded development, or modification to an existing development eliminates existing parking that is in a location which conforms to the Zoning By-law;*
- x. *A secondary dwelling shall comply with all regulations of the associated zone;*
- xi. *Secondary dwelling units may be permitted within a legally established accessory structure that:

 - a. *is located on the same lot as the primary dwelling unit;*
 - b. *meets the requirements of the zone which apply to accessory structures;*
 - c. *where the primary dwelling unit does not contain a secondary unit;*
 - d. *is located in the rear yard;**
- xii. *Secondary dwelling units located within a primary dwelling unit shall not require Site Plan Approval. Secondary dwelling units within an accessory structure shall require Site Plan Approval.*
- xiii. *A secondary dwelling unit shall not be located within a basement within a dwelling located in a flood plain as regulated by the Conservation Authority having jurisdiction for that area.*

The proposed Zoning By-Law amendments include a new definition for “Secondary Dwelling Unit” to read as follows:

SECONDARY DWELLING UNIT *means a dwelling unit ancillary and subordinate to an owner-occupied primary dwelling unit, in which food preparation, eating, living, sleeping and sanitary facilities are provided for the exclusive use of the occupants thereof.*

The proposed Zoning By-Law regulations proposed for secondary dwelling units are as follows:

4. Secondary Dwelling Units

The provisions of this section shall apply to all secondary dwelling units, unless specified by type directly herein.

1) *Permitted Zones*

A Secondary Dwelling Unit, shall be permitted within any zone, only in association with the following uses:

- a) *Single detached dwellings;*
- b) *Semi-detached dwellings;*
- c) *Street townhouse dwellings;*

2) *Number of Secondary Dwelling Units Per Lot*

A maximum of one (1) secondary dwelling unit shall be permitted per lot; in the case of a condominium, only one (1) secondary dwelling unit, shall be permitted per condominium unit for the purposes of this section a condominium unit is considered a lot.

3) *Location of Secondary Dwelling Units*

A secondary dwelling unit shall not be permitted on a separate lot from the primary dwelling unit which it is accessory to.

A secondary dwelling unit shall not be permitted on any lot located within the Near-Campus Neighbourhoods Area.

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A secondary dwelling unit or part thereof shall not be permitted in a basement where the finished floor level of such basement is below the level of any sanitary sewer servicing the building or structure in which such basement is located.

A secondary dwelling unit or part thereof shall not be permitted in a basement located in a flood plain as regulated by the Conservation Authority having jurisdiction for that area.

4) Location of Secondary Dwelling Units within Accessory Structures

A secondary dwelling unit may be permitted in an accessory structure on the same lot as the primary dwelling, but no more than one (1) secondary dwelling unit shall be permitted per lot.

A secondary dwelling unit in an accessory structure shall be required to meet the regulations of the zone which apply to accessory structures.

A secondary dwelling unit within an accessory structure may only be permitted in the rear yard or interior side yard.

5) Floor Area Requirements

No secondary dwelling unit shall be erected or used unless it has a minimum gross floor area of 25 square meters.

The gross floor area of a secondary dwelling unit shall not be greater than 40% of the combined total gross floor area of the primary dwelling unit and the secondary dwelling unit. For the purposes of calculating gross floor area requirements for secondary dwelling units the following shall not be included:

- a) *additions to dwelling units completed after the date of passage of this by-law; and*
- b) *the gross floor area of accessory structures.*

6) Total bedrooms

A Secondary dwelling unit shall be limited to a maximum of one (1) bedroom, and the total number of bedrooms of both the primary dwelling unit and secondary dwelling unit shall not be greater than five (5) for a single detached dwelling and not be greater than three (3) for a semi-detached or street townhouse dwelling.

7) Exterior Alterations

Exterior alterations shall not be permitted to the front or exterior side yard elevations of a primary dwelling to provide for entrance to the secondary dwelling unit.

Exterior alterations to provide for entrance to the secondary dwelling unit within interior side yard and rear yard elevations of the primary dwelling may be permitted.

8) Secondary Dwelling Units in Accessory Structures

Exterior alterations or new construction shall not be permitted to provide for entrance to a secondary dwelling unit in an accessory structure on the front or exterior side yard elevations of the accessory structure.

Exterior alterations to accessory structures that permit secondary dwelling units may be permitted.

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9) *Code Requirements*

Secondary dwelling units shall be required to conform to all Ontario Building Code and Ontario Fire Code regulations.

CONCLUSION

The City of London is required to bring its municipal land use planning policies up to date with the current legislative framework following the Strong Communities through Affordable Housing Act, 2011 (Bill 140). The proposed policy and regulatory framework will align the City's policies and land use regulations with the revisions to the *Planning Act*. Further, the proposed amendments are intended to address concerns related to potential impacts from secondary dwelling units as raised by the community and local municipal committees. The policies have the effect of implementing a London based solution which provides for affordable home-ownership, affordable rental and the preservation of neighbourhood character.

PREPARED BY:	SUBMITTED BY:
LEIF MAITLAND PLANNER I LONG RANGE PLANNING AND RESEARCH	GREGG BARRETT, AICP MANAGER LONG RANGE PLANNING AND RESEARCH
RECOMMENDED BY:	
JOHN M. FLEMING, MCIP, RPP MANAGING DIRECTOR, PLANNING AND CITY PLANNER	

November 13, 2015

LM/LM

"Attach"

Appendix A: Official Plan Amendment

Appendix B: Zoning By-law Amendment

Appendix C: Near-Campus Neighbourhood Map

Appendix D: PEC Report on Secondary Dwelling Units (November 2013)

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Appendix "A"

Bill No. (number to be inserted by Clerk's Office)
2016

By-law No. C.P.-1284-_____

A by-law to amend the Official Plan for the City of London, 1989 relating to secondary dwelling unit policies.

The Municipal Council of The Corporation of the City of London enacts as follows:

1. Amendment No. (to be inserted by Clerk's Office) to the Official Plan for the City of London Planning Area – 1989, as contained in the text attached hereto and forming part of this by-law, is adopted.
2. This by-law shall come into effect in accordance with subsection 17(38) of the *Planning Act, R.S.O. 1990, c.P.13*.

PASSED in Open Council on December 8, 2015.

Matt Brown,
Mayor

Catharine Saunders
City Clerk

First Reading – December 8, 2015
Second Reading – December 8, 2015
Third Reading – December 8, 2015

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AMENDMENT NO.

to the

OFFICIAL PLAN FOR THE CITY OF LONDON

A. PURPOSE OF THIS AMENDMENT

The purpose of this Amendment is to update the City of London Official Plan secondary dwelling unit policies to conform with changes to the *Planning Act* as made by *Strong Communities through Affordable Housing Act, 2011*.

B. LOCATION OF THIS AMENDMENT

This Amendment is a text amendment, which applies to all lands within the City of London.

C. BASIS OF THE AMENDMENT

The amendments are consistent with changes made to the *Planning Act* under *Strong Communities through Affordable Housing Act, 2011* with respect to secondary dwelling units.

The amendments are consistent with the policies of the *Provincial Policy Statement, 2014*, and are consistent with the Residential policies of the Official Plan.

The recommended amendments provide for the implementation of Council's June 26, 2012 direction and results in the provision of expanded policies related to secondary dwelling units within the City of London.

D. THE AMENDMENT

The Official Plan for the City of London is hereby amended as follows:

1. By inserting the following policy as subsection 3.2.1 ix) Secondary Dwelling Units of the Official Plan at the end of section 3.2.1 Permitted Uses:

Secondary Dwelling Units	ix) A single detached dwelling, semi-detached dwelling or a street townhouse dwelling may be permitted to contain a secondary dwelling unit as an ancillary and subordinate use in accordance with policy 3.2.3.9 Secondary Dwelling Units of this Plan.
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2. By deleting the last paragraph and associated criteria of subsection 3.2.3.8 Zoning By-law of the Official Plan in its entirety.
3. By inserting the following policy as subsection 3.2.3.9 of the Official Plan

3.2.3.9 Secondary Dwelling Units Secondary dwelling units may be permitted within a single detached dwelling, semi-detached dwelling or a street townhouse dwelling. The secondary dwelling unit must be clearly ancillary and subordinate to the primary residential use and may be permitted where all of the following criteria are met:

- i. Secondary dwelling units shall be permitted where the primary unit is owner occupied;
- ii. A maximum of one (1) secondary dwelling unit per primary dwelling unit is permitted, and must be located on the same lot as the primary dwelling unit;
- iii. Secondary dwelling units shall not be permitted within the

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- Near-Campus Neighbourhood Area as defined by Figure 3-1 of this Plan;
- iv. A Secondary dwelling unit shall be limited to a maximum of one (1) bedroom, and the total number of bedrooms of both the primary dwelling unit and secondary dwelling unit shall not be greater than five (5) for a single detached dwelling and not be greater than three (3) for a semi-detached or street townhouse dwelling.
 - v. Secondary dwelling units shall be required to be licensed pursuant to the Residential Rental Unit Licensing By-law;
 - vi. The gross floor area of a secondary dwelling unit shall not be greater than 40% of the combined total gross floor area of both the primary residential dwelling unit and secondary dwelling unit;
 - vii. Exterior alterations to the primary dwelling unit to provide for secondary dwelling units shall not be permitted for front or exterior side yards. To protect neighbourhood character, access to secondary dwelling units may be through existing entrances or new entrances located in rear or interior side yards;
 - viii. Any zoning amendments or variances to provide for parking in excess of the minimum parking required for the primary dwelling unit, including any request for boulevard parking, front yard parking or changes to landscaped open space regulations to support parking for a secondary dwelling unit, shall be discouraged. A new additional driveway is not permitted to provide for the secondary dwelling unit;
 - ix. Minor variances to permit front yard parking shall not be supported where the proposed new development, expanded development, or modification to an existing development eliminates existing parking that is in a location which conforms to the Zoning By-law;
 - x. A secondary dwelling shall comply with all regulations of the associated zone;
 - xi. Secondary dwelling units may be permitted within a legally established accessory structure that:
 - a. is located on the same lot as the primary dwelling unit;
 - b. meets the requirements of the zone which apply to accessory structures;
 - c. where the primary dwelling unit does not contain a secondary unit;
 - d. is located in the rear yard;
 - xii. Secondary dwelling units located within a primary dwelling unit shall not require Site Plan Approval. Secondary dwelling units within an accessory structure shall require Site Plan Approval.
 - xiii. A secondary dwelling unit shall not be located within a basement within a dwelling located in a flood plain as regulated by the Conservation Authority having jurisdiction for that area.
4. Amend subsection 3.2.3.9 by renumbering it as 3.2.3.10
 5. Amend subsection 3.2.3.10 by renumbering it as 3.2.3.11

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- 6. By inserting the following policy as subsection 3.3.1 viii) Secondary Dwelling Units of the Official Plan at the end of section 3.3.1 Permitted Uses:

Secondary Dwelling Units viii) A single detached dwelling, semi-detached dwelling or a street townhouse dwelling may be permitted to contain a secondary dwelling unit as an ancillary and subordinate use in accordance with policy 3.2.3.9 Secondary Dwelling Units of this Plan.

- 7. By inserting the following policy as subsection 3.4.1 viii) Secondary Dwelling Units of the Official Plan at the end of section 3.4.1 Permitted Uses:

Secondary Dwelling Units viii) A single detached dwelling, semi-detached dwelling or a street townhouse dwelling may be permitted to contain a secondary dwelling unit as an ancillary and subordinate use in accordance with policy 3.2.3.9 Secondary Dwelling Units of this Plan.

- 8. By deleting subsection 12.2.2.1 Accessory Dwelling Units of the Official Plan in its entirety.

- 9. By inserting the following policy as subsection 12.2.2.1 Secondary Dwelling Units of the Official Plan:

12.2.2.1 Secondary Dwelling Units A single detached dwelling, semi-detached dwelling or a street townhouse dwelling may be permitted to contain a secondary dwelling unit as an ancillary and subordinate use in accordance with policy 3.2.3.9 Secondary Dwelling Units of this Plan.

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Appendix "B"

Bill No. (number to be inserted by Clerk's Office)
2016

By-law No. Z.-1-16 _____

A by-law to amend By-law No. Z.-1 to add secondary dwelling unit provisions zoning by-law.

WHEREAS The City of London has applied to amend the City of London Zoning By-law Z.-1 to add new Secondary Dwelling Unit definitions and general provisions;

AND WHEREAS upon approval of Official Plan Amendment Number (number to be inserted by Clerk's Office) this rezoning will conform to the Official Plan;

THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. Section "2" Definitions to By-law No. Z-1 is amended by adding the following definitions following directly after the definition for Accessory Dwelling Unit;

SECONDARY DWELLING UNIT means a dwelling unit ancillary and subordinate to an owner-occupied primary dwelling unit, in which food preparation, eating, living, sleeping and sanitary facilities are provided for the exclusive use of the occupants thereof.

2. Section "4" General Provisions to By-law No. Z-1 is amended by adding the following subsection;

4. Secondary Dwelling Units

The provisions of this section shall apply to all secondary dwelling units, unless specified by type directly herein.

- 1) Permitted Zones

A Secondary Dwelling Unit, shall be permitted within any zone, only in association with the following uses:

- a) Single detached dwellings;
- b) Semi-detached dwellings;
- c) Street townhouse dwellings;

- 2) Number of Secondary Dwelling Units Per Lot

A maximum of one (1) secondary dwelling unit shall be permitted per lot; in the case of a condominium, only one (1) secondary dwelling unit, shall be permitted per condominium unit for the purposes of this section a condominium unit is considered a lot.

- 3) Location of Secondary Dwelling Units

A secondary dwelling unit shall not be permitted on a separate lot from the primary dwelling unit which it is accessory to.

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A secondary dwelling unit shall not be permitted on any lot located within the Near-Campus Neighbourhoods Area.

A secondary dwelling unit or part thereof shall not be permitted in a basement where the finished floor level of such basement is below the level of any sanitary sewer servicing the building or structure in which such basement is located.

A secondary dwelling unit or part thereof shall not be permitted in a basement located in a flood plain as regulated by the Conservation Authority having jurisdiction for that area.

4) Location of Secondary Dwelling Units within Accessory Structures

A secondary dwelling unit may be permitted in an accessory structure on the same lot as the primary dwelling, but no more than one (1) secondary dwelling unit shall be permitted per lot.

A secondary dwelling unit in an accessory structure shall be required to meet the regulations of the zone which apply to accessory structures.

A secondary dwelling unit within an accessory structure may only be permitted in the rear yard or interior side yard.

5) Floor Area Requirements

No secondary dwelling unit shall be erected or used unless it has a minimum gross floor area of 25 square meters.

The gross floor area of a secondary dwelling unit shall not be greater than 40% of the combined total gross floor area of the primary dwelling unit and the secondary dwelling unit. For the purposes of calculating gross floor area requirements for secondary dwelling units the following shall not be included:

- a) additions to dwelling units completed after the date of passage of this by-law; and
- b) the gross floor area of accessory structures.

6) Total bedrooms

A Secondary dwelling unit shall be limited to a maximum of one (1) bedroom, and the total number of bedrooms of both the primary dwelling unit and secondary dwelling unit shall not be greater than five (5) for a single detached dwelling and not be greater than three (3) for a semi-detached or street townhouse dwelling.

7) Exterior Alterations

Exterior alterations shall not be permitted to the front or exterior side yard elevations of a primary dwelling to provide for entrance to the secondary dwelling unit.

Exterior alterations to provide for entrance to the secondary dwelling unit within interior side yard and rear yard elevations of the primary dwelling may be permitted.

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8) Secondary Dwelling Units in Accessory Structures

Exterior alterations or new construction shall not be permitted to provide for entrance to a secondary dwelling unit in an accessory structure on the front or exterior side yard elevations of the accessory structure.

Exterior alterations to accessory structures that permit secondary dwelling units may be permitted.

9) Code Requirements

Secondary dwelling units shall be required to conform to all Ontario Building Code and Ontario Fire Code regulations.

The inclusion in this By-law of imperial measure along with metric measure is for the purpose of convenience only and the metric measure governs in case of any discrepancy between the two measures.

This By-law shall come into force and be deemed to come into force in accordance with Section 34 of the *Planning Act, R.S.O. 1990, c. P13*, either upon the date of the passage of this by-law or as otherwise provided by the said section.

PASSED in Open Council on December 8, 2015.

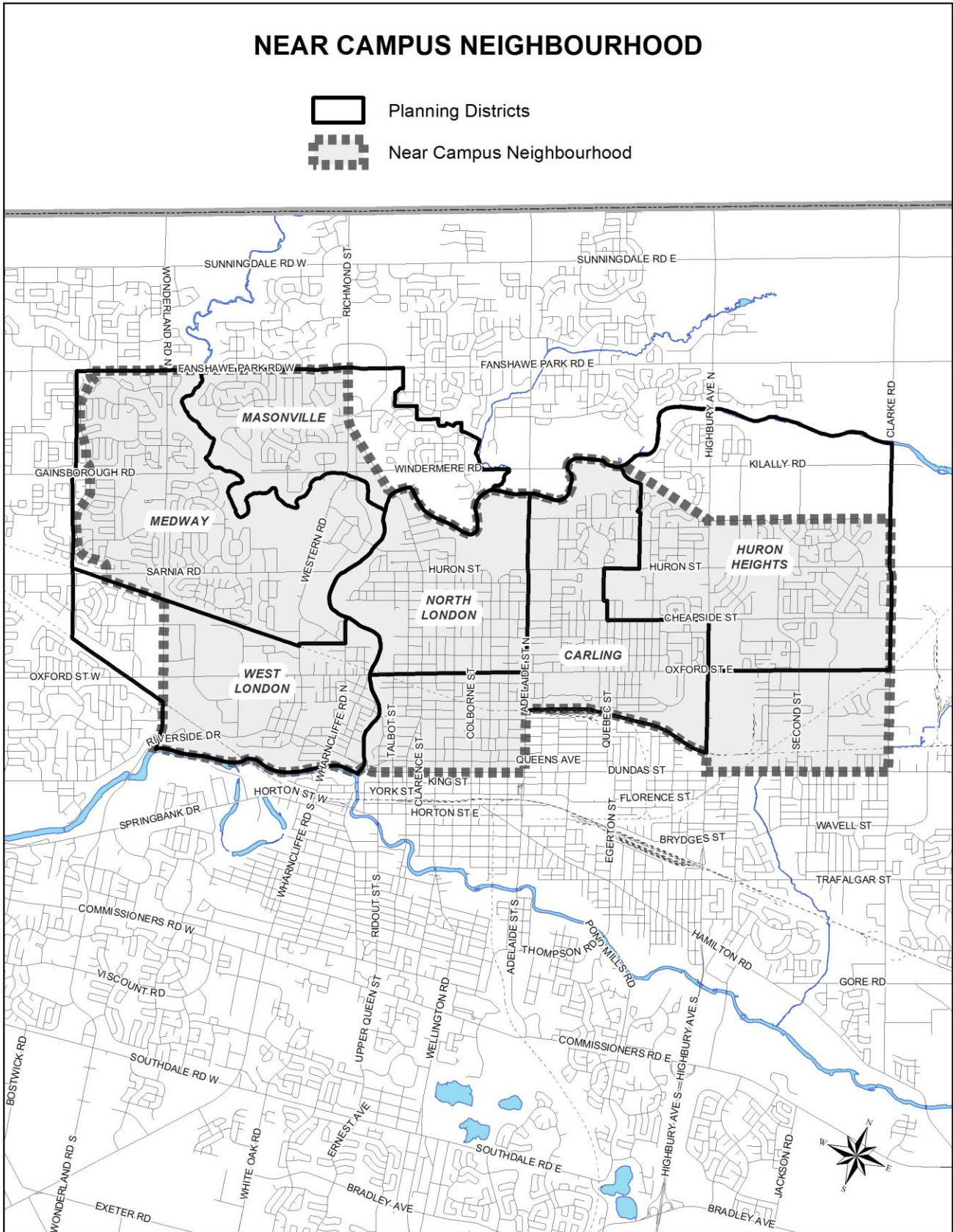
Matt Brown,
Mayor

Catharine Saunders
City Clerk

First Reading – December 8, 2015
Second Reading – December 8, 2015
Third Reading – December 8, 2015

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Appendix "C"



The map above indicates the planning districts from which the housing data was aggregated and shows the deviation from the boundary of the defined Near-Campus Neighbourhood area.

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TO:	CHAIR AND MEMBERS - PLANNING & ENVIRONMENT COMMITTEE
FROM:	JOHN M. FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER
SUBJECT:	CITY OF LONDON CITY WIDE OFFICIAL PLAN AND ZONING BY-LAW AMENDMENTS - SECONDARY DWELLING UNITS MEETING ON NOVEMBER 26, 2013

RECOMMENDATION

That, on the recommendation of the Managing Director, Planning and City Planner, with respect to the application of the City of London relating to an Official Plan Amendment to introduce new city-wide policies related to secondary dwelling units and for a Zoning By-law Amendment to introduce regulations related to secondary dwelling units, the following actions **BE TAKEN**:

- a) The proposed by-law attached hereto as Appendix "A" **BE INTRODUCED** at the Municipal Council meeting on December 3, 2013 to amend the City of London Official Plan to update secondary dwelling unit polices in accordance with changes to the *Planning Act*.
- b) The proposed by-law attached hereto as Appendix "B" **BE INTRODUCED** at the Municipal Council meeting on December 3, 2013 to amend the City of London Zoning By-law Z.-1 to update secondary dwelling unit polices in accordance with changes to the *Planning Act*.
- c) Staff **BE DIRECTED** to evaluate required changes to the Residential Rental Unit Licensing By-law to address Secondary Dwelling Unit uses.
- d) The policies for Secondary Dwelling Units **BE INCORPORATED** in the final draft of The London Plan.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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- Secondary Dwelling Unit Policies and Provisions – PEC June 18, 2012
- Secondary Dwelling Units – PEC April 9, 2013
- Secondary Dwelling Units – PEC August 20, 2013

SUMMARY OF REPORT

The *Planning Act*, through changes made by Bill 140 *Strong Communities through Affordable Housing Act, 2011*, requires municipalities to update their Official Plan policies and regulations related to secondary dwelling units. The City of London Official Plan currently provides for secondary dwelling units within single and semi-detached dwellings subject to conditions. Now with changes made by the *Strong Communities through Affordable Housing Act, 2011*, the Official Plan must include polices for secondary dwelling units as-of-right within townhouse and accessory structures in addition to single and semi-detached dwellings.

Secondary dwelling units provide residential intensification through “invisible density”, and are considered a viable affordable housing option. These units are self-contained units within

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existing buildings, or they may be integrated into new residential development. Secondary dwelling units are intended to be ancillary and subordinate to the primary dwelling unit and should not be readily visible from the street. Secondary dwelling units have been identified by the Province through these legislative changes to the *Planning Act* as a way to increase the supply of affordable housing. The intent is that this form of residential intensification will minimize land use impacts and retain neighbourhood character.

Secondary dwelling units provide an additional tool in providing for a range and mix of affordable housing within the City of London. The current policies of the Official Plan provide for a broad range of residential dwelling types. The proposed policies are intended to facilitate the establishment of, and increase the opportunities for, secondary dwellings as affordable housing options in London. This type of housing will provide homeowners with the opportunity to create a secondary dwelling to assist in the costs of homeownership.

BACKGROUND

Provincial Direction on Affordable Housing

The Ministry of Municipal Affairs and Housing, released a handbook in 2011 to outline the tools designed to implement address affordable housing issues in Ontario, including changes made by the *Strong Communities through Affordable Housing Act, 2011* to the *Planning Act*.

The Ministry identifies affordable housing as a “fundamental need” and providing access to safe, affordable and adequate housing is essential in developing complete communities. Ontario’s commitment to affordable housing extends to a broad range of types of housing and is intended to provide access to housing. Specifically, secondary dwelling units represent one subset of tools available to municipalities in providing affordable housing.

Secondary dwelling units are one of the least expensive ways of increasing affordable rental housing options throughout the municipality, while maintaining neighborhood character. Some of the key community benefits from secondary dwelling units identified by the Ministry include:

- Providing homeowners an opportunity to earn additional income to help meet the cost of home ownership
- Supporting changing demographics by providing more housing options for extended family or elderly parents, or for a live-in caregiver
- Increasing stock of rental units in an area;
- Maximizing densities and helping create income-integrated communities, which can support and enhance public transit, local businesses and the local labour market, as well as make more efficient use of infrastructure
- Creating jobs in the construction/renovation industry

The Ministry further acknowledges that municipalities are responsible for determining where secondary dwelling units shall be located. Municipalities could account for any inherent constraints, which may mean that it would not be appropriate to allow second units in some areas.

The approach recommended by staff in this report is consistent with these legislative changes introduced by the Province. Secondary dwellings represent a type of affordable housing not currently provided for in London.

Provincial Legislation

The Provincial government adopted legislation under Bill 140 *Strong Communities through Affordable Housing Act, 2011* requiring municipalities to develop or enhance policies in their Official Plans to provide for secondary dwelling units. The changes are intended to improve access to adequate, suitable and affordable housing, and provide a solid foundation to secure

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employment, raise families and build strong communities. The Official Plan must allow for secondary dwelling units within single detached, semi-detached, and townhouse dwellings as well as in ancillary structures such as a detached garage. Additionally, the municipality may regulate criteria related to location, form, and intensity.

Changes to the *Planning Act*

The modifications made by *Strong Communities through Affordable Housing Act, 2011* to the *Planning Act* came into effect on January 1, 2012 and includes the following addition to Section 16 of the *Act*.

“(3) Without limiting what an official plan is required to or may contain under subsection (1) or (2), an official plan shall contain policies that authorize the use of a second residential unit by authorizing,

(a) the use of two residential units in a detached house, semi-detached house or rowhouse if no building or structure ancillary to the detached house, semi-detached house or rowhouse contains a residential unit; and

(b) the use of a residential unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse if the detached house, semi-detached house or rowhouse contains a single residential unit.”

Municipalities must update existing secondary dwelling unit policies to comply with the *Planning Act*. The Minister of Municipal Affairs and Housing also has the ability to establish regulations, but as yet, no regulations have been issued. As such, The City of London is responsible for determining what standards or zoning provisions should apply to secondary dwelling units, provided that they are supportive of the creation of secondary dwellings. Section 35.1 (1) of the *Act* requires that the Council of each local municipality shall ensure that by-laws passed under section 34 give effect to policies for secondary dwelling units. Regulations authorizing the use of secondary dwelling units are applied within the Zoning By-law under section 34 of the *Planning Act* and may be general or particular in its application and may be restricted to parts of municipalities.

As noted above, the changes to section 16 of the *Planning Act* require municipalities to amend their Official Plans to provide for secondary dwelling units. The *Strong Communities through Affordable Housing Act, 2011* amendments to the *Planning Act* also restrict appeal rights, whereby secondary dwelling unit policies established by the City may not be appealed to the Ontario Municipal Board; and whereby a decision to permit secondary dwelling units in accordance with policies and provisions set by the City are also exempt from appeals. The removal of appeal rights provides greater certainty when establishing a secondary dwelling unit.

The *Planning Act* further increases the maximum temporary allowance of garden suites for up to 20 years, whereas a maximum of 10 years was previously permitted. No changes are recommended with regard to the City of London’s garden suite policies or zoning by-law regulations.

Secondary dwelling units must comply with any applicable laws, which could include the Building Code, the Fire Code and property standards by-laws. The changes do not “grandfather” any existing second units that do not meet applicable laws.

Second Dwelling Unit Terminology

The Province defines Secondary dwelling units as: *“self-contained residential units with kitchen and bathroom facilities within dwellings or within structures accessory to dwellings (such as above laneway garages).”* Secondary dwelling units are often referred to as: secondary suites, granny flats, basement apartments, or accessory dwelling units.

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Garden suites are temporary self-contained dwelling structures. These units are permitted in agriculturally designated areas through a temporary zone on a site-specific basis.

Converted, duplex, semi-detached dwellings represent two unit dwellings types where each unit is of an equal status. Conversely, secondary dwelling units are ancillary and subordinate to the primary residential unit. The secondary dwelling unit exists solely as a function of the primary dwelling and must demonstrate that relationship to be considered as such.

Current Policies

Through the last Official Plan Review (OPA 438), Council adopted Official Plan policies related to accessory dwelling units. The policies were prepared in anticipation of the changes now required by the *Planning Act*. The scope of uses permitted by the legislative changes is greater than the adopted policies, creating the need for an update.

The existing Official Plan policies may consider secondary dwelling units within areas designated Low Density Residential. Through a Zoning By-law amendment, a secondary dwelling unit may be permitted within a single detached or semi-detached dwelling on a site-specific basis. Based on existing policies, the additional unit must satisfy a number of criteria including:

- i. Maximum of two (2) units per residential dwelling;
- ii. The gross floor area of the accessory dwelling unit is equal to or less than the floor area of the principle dwelling unit;
- iii. The principle dwelling unit shall be owner occupied;
- iv. The accessory dwelling unit cannot be located in an accessory building or attached garage;
- v. A minimum of one (1) additional on-site parking space must be provided;
- vi. All regulations associated with the zone must be complied with;
- vii. No more than five (5) bedrooms total for both the principle and accessory dwelling units;
- viii. Accessory dwelling units may be required to be licensed; and
- ix. Accessory dwelling units shall be subject to the policies of section 3.2.3. – Residential Intensification of this plan.

These policies serve as the basis for developing new secondary dwelling unit policies in conformity with changes to the *Planning Act*.

Affordable Housing Strategy

The City of London completed an affordable housing strategy and implementation plan in 2005. With changes to the Province’s approach to affordable housing, the City of London offers two programs directly tied to the provision of affordable housing within the municipality:

- Investment in Affordable Housing Program
- Convert-To-Rent (CTR) /Rehabilitation Assistance Program

These programs are the primary incentives offered to meet affordable housing targets set through policy. The strategy and implementation plan include rehabilitation of existing building stock, the use of secondary dwelling units, the reduction in standards (such as parking requirements) and the use of rent supplements to address the affordability of housing in the private rental market. It should be noted that secondary dwelling are a subset of available tools aimed at achieving the provincial interest.

Council Direction

On June 26, 2012, in response to the changes made by the Province with respect to secondary dwelling units, Council resolved:

That, on the recommendation of the Director of Land Use Planning and City Planner:

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- a) *the Civic Administration BE DIRECTED to prepare a draft Official Plan amendment to implement secondary dwelling units policies in conformity with recent changes to the Planning Act;*
- b) *the Civic Administration BE DIRECTED to prepare a draft Zoning By-law amendment to implement secondary dwelling units regulations to conform to the Official Plan; and,*
- c) *the Civic Administration BE DIRECTED to ensure that the entire apartment is not located in a basement, in conjunction with the Building Code. (2012-D11-09)*

On April 16, 2013, Council directed Staff to circulate draft amendments for public comment and finalize Official Plan policies and Zoning By-law regulations for review at a public meeting:

That, on the recommendation of the Managing Director, Planning and City Planner, the staff report dated April 9, 2013, with respect to city-wide Official Plan and Zoning By-law Amendments, as it relates to secondary dwelling units, BE CIRCULATED for public comment; it being noted that the matter shall be considered at a future public participation meeting of the Planning and Environment Committee.

On August 27, 2013, Council directed staff to finalize proposed amendments to be presented to the Planning and Environment Committee:

That, on the recommendation of the Managing Director, Planning and City Planner, with respect to the application of the City of London relating to an Official Plan Amendment to amend existing policies related to secondary dwelling units and for a Zoning By-law Amendment to introduce regulations related to secondary dwelling units, the following actions BE TAKEN:

1. *the attached report BE RECEIVED for information; and*
2. *the proposed Official Plan Amendment and Zoning By-law Amendment BE INTRODUCED at a future public participation meeting before the Planning and Environment Committee to be scheduled for September 24, 2013.*

This report is in response to the above Council direction.

On November 13, 2013, planning staff presented the proposed recommendations to the London Housing Advisory Committee and received comments from individual members (due to lack of quorum). There comments included:

- Concern with limiting secondary dwelling units from the Great Near Campus Neighbourhood
- The implementation of additional fees through licensing (noting the reduction of required application)
- Exploring opportunities for incentives to promote the establishment of secondary dwelling units – tied specifically to affordable housing.
- Incentivizing and educating existing secondary dwelling units to be legalized or registered.

Additionally, correspondence from Neighborhood Legal Services (London & Middlesex) Inc. has been received with objections to the proposed recommendations

Outcome

New secondary dwelling unit policies and regulations are recommended to provide the City of London and residents a number of positive outcomes such as:

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1. Meeting affordable housing needs;
2. Providing safer accommodation for Londoners;
3. Appropriate intensification in existing neighbourhoods;
4. Providing Londoners with opportunities to “age in place”; and,
5. Enabling supplemental income for home ownership viability.

Managing expectations around requirements, processes and fees will be essential to the successful implementation of secondary dwelling unit policies. Further, it is recommended that the municipality facilitate the process by operating under key principles:

1. Certainty around creating a new secondary dwelling unit; and
2. Protection of neighbourhood character.

The proposed policy and regulatory framework is intended to facilitate these outcomes.

ANALYSIS

SECONDARY DWELLING UNITS BENEFITS:

Secondary dwelling units will help London achieve the following planning objectives:

Building Strong and Attractive Neighbourhoods

As part of London’s Strengthening Neighbourhood Strategy, providing for people and places is critical to the long term success of our neighbourhoods. Maintaining a critical mass of people in our neighbourhoods is a core component to maintaining the vibrancy and appeal of the area.

Secondary dwelling units can help achieve goals of the Strengthening Neighbourhood Strategy in regard to vibrancy and appeal by:

1. Providing a variety of housing choices;
2. Offering the opportunity to age in place;
3. Promoting community diversity through housing opportunities for new domestic and international immigration;
4. Offsetting housing expenses; and
5. Facilitating an economically diverse neighbourhood.

Building a More Compact City

Both a Provincial and Municipal goal, building a more compact city is a key strategy in promoting community sustainability and resiliency. Secondary dwelling units are a form of housing that provides opportunities to increase density without creating significant changes to the appearance of buildings and streetscapes or creating negative impacts on existing infrastructure.

Addressing the Need for Affordable Housing

The City of London is determined in finding options to provide affordable housing. Secondary dwelling units may provide an affordable housing option to meet some of the demand by:

1. Households facing financial challenges such as youth, older adults; new immigrants and single-parent families;
2. First time home buyers with limited equity requiring assistance in carrying a mortgage to make home ownership viable;
3. Fixed income homeowners needing additional support to assist with covering costs;

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4. Older adults or people with disabilities requiring assistance to remain in their homes and maintain a level of independence; and,
5. Families wanting to provide housing for adult children or relatives in need.

Promoting the Age Friendly Plan

The City of London has established itself as a global leader in developing as an age friendly city. The City of London’s Age Friendly Plan is based on the World Health Organization’s initiative to improve the livelihood of people of all ages. By planning for older adults, a municipality provides benefits to all age groups.

Housing is identified as a key element in the continued goal of building an Age Friendly London. Success for an Age Friendly London includes developing policies, services, settings and structures that:

1. Respond flexibly to aging-related needs and preferences; and
2. Respect their decisions and lifestyle choices;

CONCERNS WITH SECONDARY DWELLING UNITS

Despite the benefits of secondary dwelling units, there is a potential for impacts created by secondary dwelling units within existing residential neighbourhoods. Through this report, Staff is recommending potential amendments to the Official Plan and Zoning By-law that are intended address the concerns raised through the review process.

Impact on Neighbourhoods:

Parking

A major concern is the increased parking requirements of adding a second unit. Concerns related to on-street parking have been raised. Secondary dwelling units may create the need to provide additional on-site parking.

Along with a limit on the number of bedrooms, the proposed amendments include minimum and maximum parking standards. It is expected that secondary dwelling units shall be ancillary to the primary dwelling unit and the needs of parking will be limited to no more than one additional parking space as reflected in policy.

Neighbourhood Appearance

Exterior alterations to dwellings are commonly associated with changing neighbourhood character. Secondary dwelling units are most accepted when they do no impact a neighbourhood’s look and feel. The proposed policies require that the neighbourhood character be maintained through restricting visible changes when establishing new units. The requirement for no exterior alterations will be maintained within the proposed framework.

Property Maintenance

Properties that fall into disrepair and where garbage is not properly stored can negatively impact the aesthetics health and quality of the neighbourhood. A common belief is that dwellings with secondary dwelling units are not maintained in good repair, particularly in the case of absentee landlords. These issues are handled through the property standards by-law, and rely on active enforcement. Property standards can be further implemented through licensing requirements.

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Ensuring Safety

Providing safe housing options is a concern of the City of London and the public. Health and safety is intended to be addressed using the Ontario Building Code and Ontario Fire Code.

Secondary dwelling units that are to be established will be required to meet the Ontario Building Code and Ontario Fire Code, continued compliance is expected to be achieved through the residential rental license and the building permit process.

Providing Services and Infrastructure

There is very little research around the impact on services that is created by occupants living in secondary dwelling units, and hence the cost to support the additional density.

CMHC has undertaken studies on secondary dwelling units. They have found that the addition of a second unit does not double the amount of municipal services generated by household, noting a service level increase of roughly 35-65% more than a dwelling without a secondary dwelling unit. Further, individuals living in secondary dwellings often take advantage of the proximity and access to public transit, schools and parks.

This increase creates less of a demand on existing infrastructure, and provides support for public transit. Additionally, secondary dwelling units are typically located where existing services are in place and offer opportunities to maximize the value of the existing infrastructure. Secondary dwelling units do not require the additional costs associated with extending services to new subdivisions.

Secondary dwelling units are currently exempt from development charges as discussed later in this report.

Other reviews conclude that secondary dwelling units can serve to offset population declines in some areas, and sustain neighbourhoods where the average persons per dwelling have been decreasing. As a result, the cost of infrastructure is maintaining an efficient and effective level of service for the designed and targeted population.

Occupants of Secondary Dwelling Units

CMHC research highlights several presumptions regarding occupants of secondary dwelling units, which creates community concerns. These include ideas regarding household size, the “fit” of new residents in the community or that neighbourhood safety will be a greater issue as secondary dwelling units are established. However, it has been found that secondary dwelling units:

1. More than 50% of secondary dwelling units were occupied by one person;
2. Approximately 50% of secondary dwelling unit occupants were a relative or close friend of the secondary dwelling unit owner; and
3. Often categorized as affordable housing.

By contrast, the reason owners would seek out to provide a secondary dwelling unit varied. While primarily identified as a source of financial assistance income, other reasons relate to: avoid living alone, providing a home for relatives in need of assistance (physical or financial) accommodating a friend or relative to stay in order to provide assistance (maintenance, health care).

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APPROACH IN OTHER MUNICIPALITIES

London is not unique in dealing with the issue of secondary dwelling units. Many cities across Ontario are working through this issue with their own localised approaches. The following table highlights the exiting frameworks of several other comparable municipalities.

Municipality	Toronto	Ottawa	Burlington	Waterloo
Area	City wide	City wide	City wide	City Wide (zones)
Dwelling type	Singles/semis over 5 years old	Detached dwelling, semi, duplex	Singles	Single, semi, duplex, converted dwelling, triplex accessory structure
Min GFA	55m ²	N/A	42m ²	N/A
Max GFA	No greater than primary dwelling	At grade or above grade 40% of dwelling, or whole of basement	100 m ² no greater than 40% of total floor area	600m ²
Frontage	N/A	13m	15 m	15m
Lot area	N/A	N/A	N/A	360 m ²
Parking	1 space per unit and where 2 parking spaces required for property 1 space can be used for second unit	The principal and secondary dwelling units must share the parking area and yards provided for the principal dwelling unit, and no new driveway may be created, except in the case of corner lots.	2 spaces per accessory unit, 2 spaces per dwelling unit	1 space for every 2 lodgers and 1 per proprietor if on site. 4 spaces for triplexes
Driveway width	No	50%	7.35 on 15m lots	7m
External Appearance	No addition or substantial alteration to exterior appearance of front or side of the dwelling facing street	No change in street-scape, must have a separate access that cannot be located in an exterior wall facing the front	Separate exterior entrance required / prohibited on front elevation.	Property Standards By-law, lot maintenance by-law, maintain physical appearance (no structural changes)
Registration / Licensing fees	N/A	Permit required to build a secondary dwelling unit.	N/A	\$68.15 - \$757.30
Inspections	Building	Property Standards	Building Enforcement /	Municipal Law Enforcement

Mississauga Classification System

The City of Mississauga has recently undertaken a comprehensive study with respect to secondary dwelling units. As a result, the City of Mississauga developed a two category approach to handling secondary suites.

1. Owner Occupied Dwelling
2. Investment Dwellings

The notion is that a distinction can be made generally between the two types of uses. An owner occupied dwelling, generally, requires a second dwelling to support an individual requiring

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assistance while living independently or covering the cost of home ownership. Where the owner does not live on the property, it is used as an investment. Concerns such as absentee landlords, and the perception of poor property maintenance is much greater among investment properties than owner occupied dwellings.

Owner Occupied dwellings have lower licensing fees, are permitted as of right where the existing zoning regulations are complied with. Investment dwellings are required to undertake a minor variance process as a condition of licensing along with higher licensing fees. Both types of units are required to meet Ontario Building and Fire Code regulations.

IMPLEMENTATION STRATEGY

In order to implement the changes made through *Strong Communities through Affordable Housing Act, 2011* and address concerns identified in this report, the proposed strategy includes the following:

1. Official Plan policies
2. Zoning By-law regulations
3. Licensing requirements

The proposed Official Plan and Zoning By-law amendments are intended to provide stronger tools to the municipality in implementing secondary dwelling units.

Official Plan

The City of London Official Plan provides policy direction for all matters related to the growth and development of the City.

The City of London’s existing Official Plan policies (Section 3.2.3.8) for establishing secondary (accessory) dwelling units may consider secondary dwelling units within areas designated Low Density Residential. Through a Zoning By-law amendment, an accessory dwelling unit may be permitted within a single detached or semi-detached dwelling on a site-specific basis.

The proposed policy amendments to the Low and Medium density designations will address the changes made to the Planning Act

Great Near-Campus Neighbourhoods

The Great Near-Campus Neighbourhood Strategy was developed to identify challenges and potential solutions to alleviate concerns of negative impacts relating to the intensification and intensity of development in the areas surrounding Western University, and Fanshawe College. These neighbourhoods have incurred some of the greatest levels of infill and intensification in the City as a whole. This includes:

- Student residences, with significant populations at the perimeter of campus
- High rise apartments, some with extremely high residential densities
- Mid-rise apartments
- Stacked townhouses and townhouses
- Converted dwellings
- Duplex dwellings
- Semi-detached dwellings – many with five bedrooms in each unit which is unusual elsewhere in the City
- Single detached dwellings – many with five bedrooms in each unit which is unusual elsewhere in the City
- Significant additions to existing buildings
- Many lot severances within the neighbourhood, creating lot sizes that are well below that

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permitted in the zoning

These areas have zoning in place that allow for multiple forms of infill and intensification.

The Near Campus Neighbourhood Strategy recognized that these neighbourhoods had already experienced tremendously high levels of infill and intensification and that the balance between intensification/intensity and neighbourhood sustainability was being lost. In doing so, through a process that spanned many years, the Near Campus Neighbourhood Strategy was established, with participation from the University, College, residents, student bodies, By-law Enforcement, Police, Fire and the development community. This strategy included multiple prongs, including one which established new Official Plan policies and zoning regulations for these areas.

Many of the negative land use impacts within near-campus neighbourhoods have been attributed to an increase in the number of new dwelling units within low density residential areas and to an unbalanced increase in the occupancy of existing dwelling units by way of building additions or by converting basements and other common rooms into additional bedroom space.

Near-Campus Neighbourhood policies define “Residential Intensity” as the increase in the usability of an existing dwelling, building, or site to accommodate additional occupancy by such means as building construction or additions, increasing the number of bedrooms, and expanding parking areas.

The Near-Campus Neighbourhood polices provide guidance to encourage additional residential intensification proposals that are located in appropriate areas and are constructed in purpose-built, higher density building forms which are designed to accommodate the anticipated level of intensity and are professionally managed to mitigate concerns related to property maintenance, noise, garbage, and parking, among others. While allowing for different forms of intensification, the policies discourage a site-specific approach for secondary dwelling units which can promote a form of density that is contrary to the direction of the Near-Campus Neighbourhood area policies.

Secondary dwelling units, while intended to remain a form of hidden density, create additional intensity on a site. Given that this area has already incurred very significant levels of intensity and intensification, and the zoning in these areas provides significant opportunity for such intensification to continue in the future, it is recommended that secondary dwelling units should not be permitted within Near Campus Neighbourhood areas. Allowing secondary dwelling units within Near Campus Neighbourhood Areas could have a significant negative impact on the balance that has been struck by these new policies and undermine the sustainability of these neighbourhoods.

Neighbourhood Character

The physical environment of the neighbourhood, composed of its lots, buildings, streetscapes, topography, street patterns and natural environment are some of the elements that collectively determine much of the character of a neighbourhood and its streetscape. The character of a neighbourhood includes the form, massing and architectural components of its buildings. Secondary dwelling units are intended to be a form of hidden density. As such, exterior alterations to dwelling units are to be restricted. There should be no visible change to the streetscape when establishing secondary dwelling units. To this end parking and outdoor space should also maintain the character of the primary use only.

Due to their hidden nature and negligible impacts established through the recommended framework, secondary dwelling units are not subject to site plan approval or other requirements that apply to other forms of residential intensification, as defined in Section 3.2.3.1 of the Official Plan.

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Secondary Dwelling Unit as a Distinct and Separate Use

As noted by the ministry, secondary dwelling units are self-contained and fully functioning housekeeping units located entirely within another dwelling or an accessory structure. The primary and secondary dwelling unit could function as a single dwelling unit with the exception of internally locked doors and common hallways. Further, the secondary dwelling unit is clearly intended as accessory and ancillary to the primary dwelling unit. Accessory and ancillary in this circumstance would be considered as being an income generator or to provide assistance to other individuals in close proximity to the owner.

In contrast, a duplex or semi-detached dwelling unit are two-unit dwellings, which operate as independent and separate housekeeping units, whereby there is no reliance among units. The owner of land is not required be located on site and may be used for income generating purposes. Duplex and semi-detached are visibly separate units from the street and both operate independently and equally as primary dwelling units. The proposed secondary dwelling unit policies and regulations address the expected form and intensity of the use, and that this use is separate and distinct from other forms of residential dwelling types.

Owner Occupancy

As part of the proposed framework, secondary dwelling units are recommended to be established only as an accessory use to a dwelling unit (single detached, semi-detached or townhouse) that is owner occupied.

Secondary dwelling units represent a subset of affordable housing that provide additional available housing options. Secondary dwelling units are one of many tools available to the municipality in addressing affordable housing issues. As noted specifically by the Ministry of Municipal Affairs, the benefits secondary units may be used for:

- Providing homeowners an opportunity to earn additional income to help meet the cost of home ownership; or,
- Providing more housing options for extended family or elderly parents, or for a live-in caregiver

These two benefits listed above relate to types of uses that exist as a causal relationship to the primary use. The primary unit may rely on financial support from the secondary unit, or there may be a need based on care and services delivered. In both cases, a homeowner is looking to reduce costs. The accessory and ancillary nature of the secondary dwelling unit does not distinguish between persons who are related and persons who are unrelated.

The proposed framework does not restrict the occupancy of dwelling units, the policies would require that owner occupancy be required to establish a secondary unit. Otherwise, a second dwelling unit would be considered a separate use as defined by the zoning by-law and would be subject to a separate review. The City of London permits several multi-unit dwelling types (such as duplexes, triplexes, fourplexes, converted dwellings) which are defined separately in the zoning by-law, and permit these uses to be established in appropriate zones across the city. These types of dwelling types may also be considered examples of affordable housing and would capture the goals of non-owner occupied dwellings of serving as investment opportunities.

The City of London has adopted an affordable housing strategy and implementation plan, along with providing incentives to develop larger scale affordable housing project.

PROPOSED OFFICIAL PLAN AMENDMENTS

Based on the review noted in this report Planning staff recommend that the following

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amendments be made as follows:

1. *Delete the last paragraph in Section 3.2.3.8 Zoning By-law and add a new section 3.2.3.9 Secondary Dwelling Units as follows:*

Secondary dwelling units may be permitted within a single detached dwelling, semi-detached dwelling or a townhouse dwelling. The secondary dwelling unit must be clearly ancillary and subordinate to the primary residential use and may be permitted where all of the following criteria are met:

2. *Establish the following criteria for the establishment of Secondary Dwelling Unit:*

- i. **Secondary dwelling units shall be permitted where the primary unit is owner occupied;**

The intent of Secondary Dwelling Units is that they are clearly accessory and ancillary to the primary residential unit. Further, they provide a direct benefit to the owner as a primary resident on the lot, either through receiving financial assistance or providing assistance to an individual in close proximity. Where this is not the case, a dwelling containing a second unit may be considered a different form of dwelling unit (i.e. duplex, converted dwelling) which may not be permitted by the zone. Owner occupancy is recommended to be verified and maintained through the residential rental unit license as recommended in this report.

- ii. **A maximum of one (1) secondary dwelling unit per primary dwelling unit is permitted, and must be located on the same lot as the primary dwelling unit;**

This policy caps the number of secondary dwelling units per lot to limit the potential of over development of an area. Secondary dwelling units are intended to serve assistance to the property owner

- iii. **Secondary dwelling units shall not be permitted within the Great Near-Campus Neighbourhood Area as defined by Figure 3-1 of this Plan;**

Secondary dwelling units will not be permitted within the Great Near-Campus Neighbourhood Area. This area has recently undergone a comprehensive planning study and contains a number of areas that are zoned to permit additional dwellings as-of-right.

- iv. **A Secondary dwelling unit shall be limited to a maximum of one (1) bedroom, and the total number of bedrooms of both the primary dwelling unit and secondary dwelling unit shall not be greater than five (5)**

Secondary dwelling units are intended to provide either assistance to the owner by providing additional income to support the ability for home ownership or by providing assistance to individuals the ability to live independently. Multi-bedrooms are considered a separate and distinct dwelling unit and represent infill and intensification beyond the intent of the secondary dwelling unit polices.

- v. **Secondary dwelling units shall be required to be licensed pursuant to the Residential Rental Unit Licensing By-law;**

The City has an approved Residential Rental Unit Licensing By-law. Secondary dwelling units would be subject to receiving a license and maintaining its annual

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renewal.

- vi. The gross floor area of a secondary dwelling unit shall not be greater than 40% of the combined total gross floor area of both the primary residential dwelling unit and secondary dwelling unit;**

This policy will maintain that a secondary dwelling unit remains accessory and ancillary to the primary dwelling unit.

- vii. A secondary dwelling shall comply with all regulations of the associated zone;**

This policy will ensure that the lot requirements such as lot area, coverage, setbacks, landscaped areas are maintained. These requirement are established to protect the form and massing of an area and will assist in maintaining the character of the area.

- viii. Exterior alterations to the primary dwelling unit to provide for secondary dwelling units shall not be permitted for front or exterior side yards. To protect neighbourhood character, access to secondary dwelling units may be through existing entrances or new entrances located in rear or side yards.**

This policy is to ensure that alterations made to provide secondary dwelling units do not affect the appearance and character of a neighbourhood. Entrances to secondary units will be handled internally or to the side and rear of buildings as established in the zoning by-law. Front facades will not indicate the presence of a second unit.

- ix. In addition to the parking requirement for the primary residential unit one additional parking space will be required and maintained in accordance with the zoning by-law. A second driveway is not permitted;**

This policy requires one additional parking space to serve the needs of the secondary dwelling without creating visual impacts to the neighborhood.

- x. Secondary dwelling units may be permitted within a legally established accessory structure that:

 - a. is located on the same lot as the primary dwelling unit, associated therewith;**
 - b. meets the requirements of the zone;**
 - c. where the primary dwelling unit does not contain a secondary unit;**
 - d. is located in the rear yard;****

Changes to the *Planning Act* require that secondary dwelling units may be permitted in accessory structures. This policy is to ensure that an owner may either locate the secondary dwelling unit in the primary structure (such as a house) or an accessory structure (e.g. coach house). This does not permit the establishment of both units. A policy permitting one secondary dwelling unit continues to apply.

- xi. Secondary dwelling units located within a primary dwelling unit shall not require Site Plan Approval. Secondary dwelling units within an accessory structure shall require Site Plan Approval.***

Secondary dwellings are intended to be wholly contained within an existing dwelling or within an accessory structure. As such, there would be minor to no changes anticipated to the site and therefore, should not necessitate the requirement for Site

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Plan Approval.

xii. A secondary dwelling unit shall not be located within a basement within a dwelling located in a flood plain as regulated by the Conservation Authority having jurisdiction for that area.

Concerns were raised related to the health and safety of occupants located in basements. As such, secondary dwelling units shall not be permitted in locations where there is an identified potential for flooding.

Additional amendments are proposed to properly integrate the changes recommended above into the existing Official Plan.

PROPOSED ZONING BY-LAW AMENDMENTS

The City of London Zoning By-law Z.-1 performs the regulatory function of controlling land use within the City of London. However, the Zoning By-law does not currently provide for secondary dwelling units within permitted residential dwelling types except where implemented through a site-specific zoning by-law amendment, as noted in the Official Plan. To better implement secondary dwelling uses, the following provisions are recommended to facilitate the establishment the use.

It should be noted that the recommended framework would not require a planning application prior to the establishment of secondary dwellings unit provided that the requirements of the Zoning By-law are maintained.

Zoning By-law Provisions

In order to implement Secondary Dwelling Units it is recommended that Section 4 General Provisions of the City of London’s Zoning By-law be amended to include the following:

1. Section “3” Definitions to By-law No. Z-1 is amended by adding the following definitions following directly after the definition for Accessory Dwelling Unit;

SECONDARY DWELLING UNIT means a dwelling unit ancillary and subordinate to an owner-occupied primary dwelling unit, in which food preparation, eating, living, sleeping and sanitary facilities are provided for the exclusive use of the occupants thereof.

2. Section “4” General Provisions to By-law No. Z-1 is amended by adding the following subsection;

4. Secondary Dwelling Units

The provisions of this section shall apply to all secondary dwelling units, unless specified herein.

1) Permitted Zones

A Secondary Dwelling Unit, shall be permitted within any zone, only in association with the following uses:

- a) **Single detached dwellings;**
- b) **Semi-detached dwellings;**
- c) **Street townhouse dwellings;**

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2) Number of Secondary Dwelling Units Per Lot

A maximum of one (1) secondary dwelling unit shall be permitted per lot; in the case of a condominium, only one (1) secondary dwelling unit, shall be permitted per condominium unit.

3) Location of Secondary Dwelling Units

A secondary dwelling unit shall not be permitted on a separate lot from which it is accessory to.

A secondary dwelling unit shall not be permitted on any lot located within the Near-Campus Neighbourhoods Area as delineated by Figure 4.36 of this By-law

A secondary dwelling unit or part thereof is permitted in a basement provided the finished floor level of such basement is not below the level of any sanitary sewer servicing the building or structure in which such basement is located.

4) Location of Secondary Dwelling Units within Accessory Structures

A secondary dwelling unit may be permitted within an accessory structure on the same lot as the primary dwelling, but no more than one (1) secondary dwelling unit shall be permitted per lot.

A secondary dwelling unit in an accessory structure shall be required to meet the regulations of the zone.

A secondary dwelling unit may only be permitted in an accessory structure located in the rear yard or interior side yard.

5) Floor Area Requirements

No secondary dwelling unit shall be erected or used unless it has the a minimum gross floor area of 25 square meters.

The gross floor area of a secondary dwelling unit shall not be greater than 40% of the combined total gross floor area of the primary dwelling unit and the secondary dwelling unit. For the purposes of calculating gross floor area requirements for secondary dwelling units the following shall not be included:

- (a) additions to dwelling units completed after the date of passage of this by-law; and**
- (b) the gross floor area of accessory structures.**

6) Parking

A secondary dwelling unit shall require a maximum of one (1) parking space.

7) Total bedrooms

A Secondary dwelling unit shall be limited to a maximum of one (1) bedroom, and the total number of bedrooms of both the primary dwelling unit and secondary dwelling unit is not greater than five (5).

8) Exterior Alterations

Exterior alterations shall not be permitted to the front or exterior side yard elevations of a primary dwelling to provide for entrance to the secondary

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dwelling unit.

Exterior alterations to provide for entrance to the secondary dwelling unit within interior side yard and rear yard elevations of the primary dwelling may be permitted provided that the interior side yard elevation does not contain more than one entrance.

Exterior alterations to accessory structures that permit secondary dwelling units may be permitted.

9) Code Requirements

Secondary dwelling units shall be required to conform to all Ontario Building Code and Ontario Fire Code regulations.

10) Licensing

A secondary dwelling unit shall be required to obtain a license under the City of London Residential Rental Unit Licensing By-law.

Licensing Requirements

On August 30, 2011 the City of London adopted a Residential Rental Units Licensing By-law. This by-law requires that all rental units, unless explicitly exempt, shall obtain a licence to operate.

The Licensing by-law provides the municipality to:

- (a) receive and process all applications for all licenses and renewals of licences under this By-law;
- (b) issue licenses in accordance with the provisions of this By-law;
- (c) impose terms and conditions on licences in accordance with this By-law; and,
- (d) refuse to issue or renew a licence or revoke or suspend a licence in accordance with this By-law.

Additional conditions on the licence may be included as prescribed by the License Manager.

Updates to the Residential Rental Unit Licensing By-law may be required, where appropriate, to reflect the secondary dwelling unit use.

This report recommends that Council direct staff to include owner occupancy as a requirement for Residential Rental Unit Licenses related to secondary dwelling units.

Enforcement and Compliance Issues

The provisions of the Residential Rental Unit Licensing By-law provides the enforcement tool to inspect licensed premises. Further, the concerns regarding property standards, maintenance issues, and parking violations are impacts that can be addressed without requiring access to the secondary dwelling unit.

Offenses may result in the suspension or revocation of the residential rental unit license or fines to the property owner.

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FINANCIAL CONSIDERATIONS

Development Charges

The City collects development charges for growth related infrastructure and services. Under the Development Charges By-law certain developments are exempt including, among others:

- (a) creates one or two additional dwelling units in an existing single detached dwelling if the total gross floor area of the additional dwelling unit or units does not exceed the gross floor area of the dwelling unit already in the building;*
- (b) creates one additional dwelling unit in a semi-detached or row dwelling if the gross floor area of the additional dwelling unit does not exceed the gross floor area of the dwelling unit already in the building;*

Using the exemptions provided within the Development Charges By-law, secondary dwelling units within single detached, semi-detached or townhouses would be exempt from paying development charges. However, secondary dwelling units established in accessory structures would not be exempt under the current By-law. An amendment would be required to exempt secondary units in detached accessory structures.

No changes are proposed to the Development Charges By-law.

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CONCLUSION

The City of London is required to bring its municipal land use planning policies up to date with the current legislative framework. The proposed policy and regulatory framework will align the City’s policies and land use regulations with the revisions to the *Planning Act*. Further, the proposed amendments are intended to address concerns related to potential impacts from secondary dwelling units, while providing for this form of residential intensification in London

PREPARED BY:	SUBMITTED BY:
ERIC LALANDE PLANNER II, POLICY PLANNING AND PROGRAMS	GREGG BARRETT, AICP MANAGER, POLICY PLANNING AND PROGRAMS
RECOMMENDED BY:	
JOHN M. FLEMING, MCIP, RPP MANAGING DIRECTOR, PLANNING AND CITY PLANNER	

October 31, 2013
 ELGB/el
 “Attach”



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Appendix "D" – November 2013 Report



November 12, 2013

Chair and Members
London Housing Advisory Committee
300 Dufferin Avenue
London, ON N6A 4L9

Dear Sirs & Mesdames,

Re: Bill 140 Requirement that "granny flats" be authorized in London

Thank you for the opportunity last April to address you on the topic of renting second housing units in houses zoned for single family occupation, commonly known as "granny flats" and Bill 140, which requires municipalities to authorize them.

Unfortunately Mr. Lalande was, I understand, unable to attend that day and brief you on the proposed by-law amendments which Bill 140 requires the City of London to implement. He is, I gather, attending your meeting on November 13th.

As you will recall, the Ontario government, with Bill 140, passed a law requiring Ontario municipalities to authorize granny flats in response to the refusal of some communities, including London, to authorize them. Ontario sees them as a means to cope with the acute shortage of affordable housing in communities such as London.

The Statute provides as follows:

Second Unit Policies

16. (1) (3) Without limiting what an official plan is required to or may contain under subsection (1) or (2), and official plan shall contain policies that authorize the use of a second residential unit by authorizing,

- (a) the use of two residential units in a detached house, semi-detached house or rowhouse if no building or structure ancillary to the detached house, semi-detached house or rowhouse contains a residential unit; and

507-151 Dundas St., London, ON N6A 5R7 519-438-2890 fax: 519-438-3145 schlemmj@lao.on.ca

Jeff Schlemmer, LL.B. Director Monica Wolf, B.A.(Hons.), LL.B Stephanie Dickson, B.A., LL.B./B.C.L Patty Gunness, CLW
Mike Laliberte, B.A., B. Ed., LL.B. Kristina Pagnello, M.A., LL.B. Michael Joudrey, Duty Counsel



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(b) the use of a residential unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse if the detached house, semi-detached house or rowhouse contains a single residential unit.

...

By-laws to give effect to second unit policies

35.1 (1) The council of each local municipality shall ensure that the by-laws passed under section 34 give effect to the policies described in subsection 16 (3).

The City of London, in its report of August 20, 2013 to the Planning Committee, has proposed a by-law amendment which would authorize granny flats in principle but apparently largely ban them in practice.

Most of London’s proposed by-law amendment **restricts**, rather than **authorizes**, granny flats. The by-law, for instance, would ban them completely in the “Greater Near-Campus Neighbourhood Area”, which encompasses most of the northern half of the residential area of London. This is, of course, where most granny flats are located.

The by-law also restricts granny flats in a number of additional ways, such as requiring “that the secondary unit must be clearly ancillary to the primary residential use”, permitting no more than one bedroom, requiring that the primary unit be owner occupied, requiring that floor area be no less than 25 sq. metres and no more than 40% of the building total, requiring that the granny flat comply with all regulations of the associated zone, requiring that there be no alterations to the building exterior or lot, permitting only one parking space, requiring the entrance to be within the primary unit, limits on basement units, etc. And the granny flat must be licensed.

It would appear that perhaps 5 to 10 percent of London’s existing granny flats would be authorized under the proposed by-law. The rest would presumably ultimately be shut down by the City.

So it would appear that London is proposing to contravene this Ontario law in the case of 90 to 95% of London’s granny flats. (You may judge whether it would be a defence to a suggestion that you have disobeyed a law to point out that you only disobeyed it 90 to 95 percent of the time.)

I recently learned that the City held a public participation meeting on this issue in September, and that the plan is to take it to Planning Committee for adoption this month, and for the by-law amendment to be passed by London City Council soon thereafter.

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I would recommend that you, as the City’s Housing Advisory Committee, ask Mr. Lalande to defer this matter for now, so that you may fully consider the recommended by-law amendment and its implications. You may, for example, wish to seek information about the status of Bill 140 in other municipalities and with the Ministry of Municipal Affairs and Housing. You might also ask London’s Housing Division to appear before you and report on its capacity to cope with finding housing for the many low-income Londoners who’s homes the proposed by-law would apparently ban.

This seems reasonable given that the City was to report to you on this in April but was apparently not able to do so until now, and given that the report from Mr. Lalande for your November 13th meeting is not available to you until the meeting itself. Your role is presumably to provide sober second thought, for which you need reasonable time if you are to do so meaningfully.

The debate about whether granny flats are a good or bad thing is, with greatest of respect to the City, long over. The Ontario legislature decided, as it is entitled to do, that Ontario municipalities shall authorize them. The City is bound by Ontario law.

Ontario has decreed that granny flats **shall** be authorized. **Period.**

Bill 140 does not appear to give the City the power to circumvent the intent of the law, (which is to authorize granny flats), by de facto prohibiting most of them. To the extent that the City of London refuses to authorize any single granny flat it is in apparent breach of Ontario law. Given that Bill 140 protects low-cost London homes, of which there is a desperate shortage, I hope that your Committee will recommend to Council that Bill 140 must be fully obeyed to the letter.

I attach an article from the Toronto Star today which speaks to the growing magnitude of the affordable housing shortage. This is why Ontario is requiring municipalities like London to permit granny flats, no matter that some municipalities and certain NIMBY homeowners don’t like it.

I apologize that I am tied up at a hearing today and cannot attend your meeting. I would be pleased to answer any questions about this matter at your convenience.

Yours truly,


Jeff Schlemmer

Encls: Bill 140; “Ontario affordable housing lists still climbing: Toronto Star, November 12, 2013

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Planning Act

R.S.O. 1990, CHAPTER P.13

...

Contents of official plan

16. (1) An official plan shall contain,

(a) goals, objectives and policies established primarily to manage and direct physical change and the effects on the social, economic and natural environment of the municipality or part of it, or an area that is without municipal organization; and

(b) such other matters as may be prescribed.

Same

(2) An official plan may contain,

(a) a description of the measures and procedures proposed to attain the objectives of the plan;

(b) a description of the measures and procedures for informing and obtaining the views of the public in respect of a proposed amendment to the official plan or proposed revision of the plan or in respect of a proposed zoning by-law; and

(c) such other matters as may be prescribed.

Second unit policies

(3) Without limiting what an official plan is required to or may contain under subsection (1) or (2), an official plan shall contain policies that authorize the use of a second residential unit by authorizing,

(a) the use of two residential units in a detached house, semi-detached house or rowhouse if no building or structure ancillary to the detached house, semi-detached house or rowhouse contains a residential unit; and

(b) the use of a residential unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse if the detached house, semi-detached house or rowhouse contains a single residential unit.

...

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Zoning by-laws

34. (1) Zoning by-laws may be passed by the councils of local municipalities:

Restricting use of land

1. For prohibiting the use of land, for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or abutting on any defined highway or part of a highway.

...

By-laws to give effect to second unit policies

35.1 (1) The council of each local municipality shall ensure that the by-laws passed under section 34 give effect to the policies described in subsection 16 (3).

Regulations

(2) The Minister may make regulations,

- (a) authorizing the use of residential units referred to in subsection 16 (3);
- (b) establishing requirements and standards with respect to residential units referred to in subsection 16 (3).

Regulation applies as zoning by-law

(3) A regulation under subsection (2) applies as though it is a by-law passed under section 34.

Regulation prevails

(4) A regulation under subsection (2) prevails over a by-law passed under section 34 to the extent of any inconsistency, unless the regulation provides otherwise.

Exception

(5) A regulation under subsection (2) may provide that a by-law passed under section 34 prevails over the regulation.

Regulation may be general or particular

(6) A regulation under subsection (2) may be general or particular in its application and may be restricted to those municipalities or parts of municipalities set out in the regulation.

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Appendix "A"

Bill No. (number to be inserted by Clerk's Office)
2013

By-law No. C.P.-1284-_____

A by-law to amend the Official Plan for the City of London, 1989 relating to secondary dwelling unit policies.

The Municipal Council of The Corporation of the City of London enacts as follows:

1. Amendment No. (to be inserted by Clerk's Office) to the Official Plan for the City of London Planning Area – 1989, as contained in the text attached hereto and forming part of this by-law, is adopted.
2. This by-law shall come into effect in accordance with subsection 17(38) of the *Planning Act, R.S.O. 1990, c.P.13.*

PASSED in Open Council on _____, 2013.

Joe Fontana
Mayor

Catharine Saunders
City Clerk

First Reading – _____, 2013
Second Reading – _____, 2013
Third Reading – _____, 2013

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AMENDMENT NO.

to the

OFFICIAL PLAN FOR THE CITY OF LONDON

A. PURPOSE OF THIS AMENDMENT

The purpose of this Amendment is to update the City of London Official Plan secondary dwelling unit policies to conform with changes to the *Planning Act* as made by *Strong Communities through Affordable Housing Act, 2011*.

This Amendment:

1. Amends Section 3.2.3.8 Zoning By-law by deleting the last paragraph, which relates to Accessory Dwelling Units;
2. Inserts Section 3.2.3.9 Secondary Dwelling Units;
3. Renumbers Section 3.2.3. to accommodate the changes made by this Amendment;
4. Amend Section 12.2.2.1 to reference new policies.

B. LOCATION OF THIS AMENDMENT

1. This Amendment is a text amendment, which applies to all lands within the City of London.

C. BASIS OF THE AMENDMENT

The amendments are consistent with changes made to the *Planning Act* under *Strong Communities through Affordable Housing Act, 2011* with respect to secondary dwelling units.

The amendments are consistent with the policies of the *Provincial Policy Statement, 2005*, and are consistent with the Residential policies of the Official Plan.

The recommended amendments provide for the implementation of Council’s June 26, 2012 direction and results in the provision of expanded policies related to secondary dwelling units within the City of London.

D. THE AMENDMENT

The Official Plan for the City of London is hereby amended as follows:

10. By deleting the last paragraph and associated criteria of subsection 3.2.3.8 Zoning By-law of the Official Plan in its entirety.
11. By inserting the following policy as subsection 3.2.3.9 of the Official Plan

3.2.3.9 Secondary Dwelling Units Secondary dwelling units may be permitted within a single detached dwelling, semi-detached dwelling or a street townhouse dwelling. The secondary dwelling unit must be clearly ancillary and subordinate to the primary residential use and may be permitted where all of the following criteria are met:

- xiv. Secondary dwelling units shall be permitted where the primary unit is owner occupied;
- xv. A maximum of one (1) secondary dwelling unit per primary

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- dwelling unit is permitted, and must be located on the same lot as the primary dwelling unit;
- xvi. Secondary dwelling units shall not be permitted within the Great Near-Campus Neighbourhood Area as defined by Figure 3-1 of this Plan;
 - xvii. A Secondary dwelling unit shall be limited to a maximum of one (1) bedroom, and the total number of bedrooms of both the primary dwelling unit and secondary dwelling unit shall not be greater than five (5).
 - xviii. Secondary dwelling units shall be required to be licensed pursuant to the Residential Rental Unit Licensing By-law;
 - xix. The gross floor area of a secondary dwelling unit shall not be greater than 40% of the combined total gross floor area of both the primary residential dwelling unit and secondary dwelling unit;
 - xx. A secondary dwelling shall comply with all regulations of the associated zone;
 - xxi. Exterior alterations to the primary dwelling unit to provide for secondary dwelling units shall not be permitted for front or exterior side yards. To protect neighbourhood character, access to secondary dwelling units may be through existing entrances or new entrances located in rear or side yards.
 - xxii. In addition to the parking requirement for the primary residential unit one additional parking space will be required and maintained in accordance with the zoning by-law. A second driveway is not permitted;
 - xxiii. Secondary dwelling units may be permitted within a legally established accessory structure that:
 - a. is located on the same lot as the primary dwelling unit;
 - b. meets the requirements of the zone;
 - c. where the primary dwelling unit does not contain a secondary unit;
 - d. is located in the rear yard;
 - xxiv. Secondary dwelling units located within a primary dwelling unit shall not require Site Plan Approval. Secondary dwelling units within an accessory structure shall require Site Plan Approval.
 - xxv. A secondary dwelling unit shall not be located within a basement within a dwelling located in a flood plain as regulated by the Conservation Authority having jurisdiction for that area.

12. Amend subsection 3.2.3.9 by renumbering it as 3.2.3.10

13. Amend subsection 3.2.3.10 by renumbering it as 3.2.3.11

14. By inserting the following policy as subsection 3.3.1 viii) Secondary Dwelling Units of the Official Plan at the end of section 3.3.1 Permitted Uses:

Secondary Dwelling Units	viii) A single detached dwelling, semi-detached dwelling or a street townhouse dwelling may be permitted to contain a secondary dwelling unit as an ancillary and subordinate use in accordance with policy 3.2.3.9 Secondary Dwelling Units of this Plan.
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- 15. By deleting subsection 12.2.2.1 Accessory Dwelling Units of the Official Plan in its entirety.

- 16. By inserting the following policy as subsection 12.2.2.1 Secondary Dwelling Units of the Official Plan:

12.2.2.1 A single detached dwelling, semi-detached dwelling or a street townhouse
Secondary dwelling may be permitted to contain a secondary dwelling unit as an
Dwelling ancillary and subordinate use in accordance with policy 3.2.3.9 Secondary
Units Dwelling Units of this Plan.

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Appendix "B"

Bill No. (number to be inserted by Clerk's Office)
2013

By-law No. Z.-1-13_____

A by-law to amend By-law No. Z.-1 to add secondary dwelling unit provisions zoning by-law.

WHEREAS The City of London has applied to amend the City of London Zoning By-law Z.-1 to add new Secondary Dwelling Unit definitions and general provisions

AND WHEREAS upon approval of Official Plan Amendment Number (number to be inserted by Clerk's Office) this rezoning will conform to the Official Plan;

THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. Section “3” Definitions to By-law No. Z-1 is amended by adding the following definitions following directly after the definition for Accessory Dwelling Unit;

SECONDARY DWELLING UNIT means a dwelling unit ancillary and subordinate to an owner-occupied primary dwelling unit, in which food preparation, eating, living, sleeping and sanitary facilities are provided for the exclusive use of the occupants thereof.

2. Section “4” General Provisions to By-law No. Z-1 is amended by adding the following subsection;

4. Secondary Dwelling Units

The provisions of this section shall apply to all secondary dwelling units, unless specified by type directly herein.

10) Permitted Zones

A Secondary Dwelling Unit, shall be permitted within any zone, only in association with the following uses:

- d) Single detached dwellings;
- e) Semi-detached dwellings;
- f) Street townhouse dwellings;

11) Number of Secondary Dwelling Units Per Lot

A maximum of one (1) secondary dwelling unit shall be permitted per lot; in the case of a condominium, only one (1) secondary dwelling unit, shall be permitted per condominium unit.

12) Location of Secondary Dwelling Units

A secondary dwelling unit shall not be permitted on a separate lot from which it is accessory to.

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A secondary dwelling unit shall not be permitted on any lot located within the Near-Campus Neighbourhoods Area as delineated by Figure 4.36 of this By-law

A secondary dwelling unit or part thereof is permitted in a basement provided the finished floor level of such basement is not below the level of any sanitary sewer servicing the building or structure in which such basement is located.

13) Location of Secondary Dwelling Units within Accessory Structures

A secondary dwelling unit may be permitted in an accessory structure on the same lot as the primary dwelling, but no more than one (1) secondary dwelling unit shall be permitted per lot.

A secondary dwelling unit in an accessory structure shall be required to meet the regulations of the zone.

A secondary dwelling unit may only be permitted within an accessory structure located in the rear yard or interior side yard.

14) Floor Area Requirements

No secondary dwelling unit shall be erected or used unless it has the a minimum gross floor area of 25 square meters.

The gross floor area of a secondary dwelling unit shall not be greater than 40% of the combined total gross floor area of the primary dwelling unit and the secondary dwelling unit. For the purposes of calculating gross floor area requirements for secondary dwelling units the following shall not be included:

- c) additions to dwelling units completed after the date of passage of this by-law; and
- d) the gross floor area of accessory structures.

15) Parking

A secondary dwelling unit shall require a maximum of one (1) parking space.

16) Total bedrooms

A Secondary dwelling unit shall be limited to a maximum of one (1) bedroom, and the total number of bedrooms of both the primary dwelling unit and secondary dwelling unit is not greater than five (5).

17) Exterior Alterations

Exterior alterations shall not be permitted to the front or exterior side yard elevations of a primary dwelling to provide for entrance to the secondary dwelling unit.

Exterior alterations to provide for entrance to the secondary dwelling unit within interior side yard and rear yard elevations of the primary dwelling may be permitted provided that the interior side yard elevation does not contain more than one entrance.

Exterior alterations to accessory structures that permit secondary dwelling units may be permitted.

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18) Code Requirements

Secondary dwelling units shall be required to conform to all Ontario Building Code and Ontario Fire Code regulations.

19) Licensing

A secondary dwelling unit shall be required to obtain a license under the City of London Residential Rental Unit Licensing By-law.

The inclusion in this By-law of imperial measure along with metric measure is for the purpose of convenience only and the metric measure governs in case of any discrepancy between the two measures.

This By-law shall come into force and be deemed to come into force in accordance with Section 34 of the *Planning Act, R.S.O. 1990, c. P13*, either upon the date of the passage of this by-law or as otherwise provided by the said section.

PASSED in Open Council on _____, 2013.

DRAFT

Joe Fontana
Mayor

Catharine Saunders
City Clerk

First Reading - _____, 2013
Second Reading – _____, 2013
Third Reading - _____, 2013