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**File No.: 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 JULY 17, 2017

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 July 25, 2017 to amend the City of London Official Plan, 1989 to amend Policy 3.2.3.9 Secondary Dwelling Units to add policies to permit the creation of secondary dwelling units in a single detached dwelling, semi-detached dwelling or street townhouse dwelling, consistent with the secondary dwelling unit policies of The London Plan, as modified by the Minister of Municipal Affairs; and,
- b) The proposed by-law attached hereto as Appendix "B" **BE INTRODUCED** at the Municipal Council meeting on July 25, 2017 to amend the City of London Zoning By-law Z.-1, in conformity with the Official Plan, as amended in clause (a) above, to permit secondary dwelling units with regulations to address such matters as location, scale, and accessory structures.

PURPOSE AND EFFECT OF RECOMMENDED ACTION

The purpose and effect of the recommendations is to amend the Official Plan (1989) and Zoning By-law Z.-1 to permit Secondary Dwelling Units. This Official Plan amendment will provide consistent policies for secondary dwelling units in both the current Official Plan and *The London Plan*. The Zoning By-law Amendment will implement these secondary dwelling unit policies to provide for the development of secondary dwelling units.

RATIONALE

1. Bill 140 *Strong Communities through Affordable Housing Act, 2011* amended the *Planning Act* to require that municipalities adopt policies in their Official Plans to provide for secondary dwelling units.
2. Policy 1.4.3 of the Provincial Policy Statement requires that the City plan for an appropriate mix of housing types and densities and permit, where appropriate "all forms of *residential intensification*, including second units".
3. In the approval of the new Official Plan for the City of London, *The London Plan*, the Minister of Municipal Affairs modified the secondary dwelling unit policies as adopted by Municipal Council. This amendment ensures that the secondary dwelling unit policies of *The London Plan* and the Official Plan, 1989 are consistent.

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4. Further to Council’s direction to receive community input regarding secondary dwelling unit policies as modified by the Minister of Municipal Affairs, general support for these modified policies was received from the advisory committees and the public.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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- Minister’s Modification to the London Plan – Secondary Dwelling Units – PEC February 6, 2017
- City wide Official Plan and Zoning By-law Amendments – Secondary Dwelling Units – PEC August 22, 2016
- Great Near-Campus Neighbourhoods Strategy Review – July 18, 2016
- Secondary Dwelling Units – PEC November 26, 2015
- City Wide Official Plan and Zoning By-Law Amendments – Secondary Dwelling Units - PEC November 26, 2013
- Secondary Dwelling Units – PEC August 20, 2013
- Secondary Dwelling Units – PEC April 9, 2013
- Secondary Dwelling Unit Policies and Provisions – PEC June 18, 2012

SIGNIFICANT DEPARTMENT/AGENCY COMMENTS

WADE: No comment

Conseil scolaire Viamonde (French public school board): No comment

Upper Thames River Conservation Authority: The UTRCA and the City of London have policies in place to limit intensification in these areas and it will be necessary to incorporate appropriate provisions in the Secondary Dwelling Units policies to ensure that these policies are not contrary to existing policies and that they are consistent with Provincial, UTRCA and City natural hazards policies.

PUBLIC LIAISON:	<p>On April 5, 2017, Notice of Application was sent out to those who requested to be informed of the progress of the secondary dwelling unit file. Notice of Application was also published in the <i>Public Notices and Bidding Opportunities</i> section of <i>The Londoner</i> on April 6, 2017.</p>	<p>3 replies were received</p>
<p>Nature of Liaison: City-wide - Secondary Dwelling Units Policies and Regulations - The purpose of the Official Plan, 1989 amendment is to adopt policies to permit secondary dwelling units within single detached, semi-detached and townhouse dwellings or ancillary structures related to those units. The purpose of the Zoning By-law amendment is to set out requirements for implementation of the Official Plan, 1989 policies related to secondary dwelling units. The policies and provisions would allow owners the opportunity to create a separate and ancillary dwelling unit within an existing dwelling or an accessory structure subject to criteria set out by the Official Plan and Zoning By-law. Possible amendments to the Official Plan, 1989 include: REPLACE Section 3.2.3.9 Secondary Dwelling Unit with revised policies. Possible amendments to Zoning By-law Z.-1 include: amending Section “2” Definitions, to ADD a definition for SECONDARY DWELLING UNIT; and, amending Section “4” General Provisions, to ADD regulations for Secondary Dwelling Units. File: OZ-8053 Planner: Leif Maitland (Dundas)</p>		

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Responses: Two responses received were request for clarification with regards to the Minister’s modifications around the Near Campus Neighbourhoods.

The third response requested that: grandfathering being permitted for all secondary dwelling units which did not meet the requirements of the zone; that the owner-occupancy requirement which was in previously proposed amendments be removed; and, that the one bedroom limitation in the previously proposed amendments likewise be removed.

A fourth response indicated that there was neighbourhood support for the Minister’s choice to exclude secondary dwelling units as of right from the Near-Campus Neighbourhood area.

BACKGROUND**Secondary Dwelling Units**

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.

Secondary dwelling units are distinct from converted dwellings, duplex dwellings and semi-detached dwellings, which are forms of two-unit dwellings that are either purpose-designed as two-unit structures or converted to permit two units. Secondary dwelling units are ancillary and subordinate to a primary residential unit. A secondary dwelling unit is located within single detached, semi-detached and street townhouse dwellings, which are not purpose designed as two-unit dwellings.

Bill 140 Strong Communities through Affordable Housing Act, 2011

The *Planning Act*, as amended by Bill 140, the *Strong Communities through Affordable Housing Act, 2011*, requires municipalities to update their Official Plan policies and regulations related to secondary dwelling units. In response to this, the City of London Official Plan, 1989 was amended in August, 2016 to establish policies to permit secondary dwelling units in single detached, semi-detached and street townhouse dwellings. These policies include provisions that would only permit secondary dwelling units within owner-occupied dwellings, would permit secondary dwelling units in Near Campus Neighbourhoods, and would limit the number of bedrooms in a secondary dwelling unit to one bedroom.

These same policies were endorsed by Municipal Council, and forwarded to the Minister of Municipal Affairs for consideration as part of the approval of the new Official Plan for the City of London, *The London Plan*. As a result of modifications made to these policies by the Minister in the approval of *The London Plan*, the policies of the current (1989) Official Plan are not consistent with the policies as modified by the Minister in *The London Plan*.

Secondary dwelling units provide residential intensification through “invisible density,” and are considered as a means of providing affordable housing, both through affordable home ownership by providing owners an opportunity to generate income to support the cost of home ownership, and as affordable rental accommodation. These units are self-contained units within single detached, semi-detached and street townhouse dwellings, which are all purpose designed single unit forms of 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

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neighbourhood character.

Policy Development Process

November, 2013 - An Official Plan and Zoning By-law amendment was presented for consideration by City Council that would have permitted secondary dwelling units in the City of London. The proposed policies included provisions that required the primary unit to be owner-occupied and limited secondary dwelling units to areas outside of Near-Campus Neighbourhoods. This report noted concerns raised by individuals on the London Housing Advisory Committee (the comments were not the official position of the committee as the committee did not meet quorum during the review) and Neighbourhood Legal Services (London & Middlesex). The concerns related to the exclusion of secondary dwelling units from the Near Campus Neighbourhoods, the imposition of fees through licensing, and opportunities for incentives to promote the establishment of secondary dwelling units, specifically tied to affordable housing.

February-May 2014 - Staff received advice from the London Housing Advisory Committee and the Town & Gown Committee regarding the draft secondary dwelling unit policies.

November-December, 2015 – An Official Plan and Zoning By-law amendment was presented for consideration by City Council that would permit secondary dwelling units in the City of London. The proposed policies included provisions that required the primary unit to be owner-occupied and limited secondary dwelling units to areas outside Near-Campus Neighbourhoods.

There was again concern regarding the geographic restriction on secondary dwelling units from the Near-Campus Neighbourhoods. At the same time, there was a review of the Near-Campus Neighbourhoods Strategy and policies being undertaken, and the secondary dwelling unit policies were referred back to be considered as part of that review.

June, 2016 – The London Plan was adopted by City Council. It included policies for Secondary Dwelling Units that would not permit secondary dwelling units in Near-Campus Neighbourhoods, required the primary unit to be owner-occupied, required one additional parking space for the secondary dwelling unit, and limited the number of bedrooms in the secondary dwelling unit. These same policies were adopted by Council for the current (1989) Official Plan.

July, 2016 – The Near-Campus Neighbourhoods Strategy review was completed and a report was presented to the Planning and Environment Committee. The staff recommendation, which was based on extensive community and stakeholder consultation, recommended that secondary dwelling units should be permitted within Near-Campus Neighbourhoods. This conclusion was based in part on the understanding by residents of Near-Campus Neighbourhoods that the primary unit would be required to be owner-occupied. City Council directed Civic Administration to prepare revised policies that permit secondary dwelling units in Near-Campus Neighbourhoods.

August, 2016 – Revised policies for secondary dwelling units were approved by City Council. These policies adopted the recommendations made through the Near-Campus Neighbourhood Strategy review. These policies made several changes to the policies adopted by Municipal Council contained in *The London Plan* submitted to the Minister in June, 2016. These changes were endorsed by Council, and forwarded to the Ministry of Municipal Affairs for consideration as *The London Plan* had been adopted by Council and was at the Ministry for approval. These revised policies were also approved by Council to amend the current (1989) Official Plan.

December, 2016 – The Minister approved *The London Plan* with modifications. The modifications included a combination of the policies as adopted by Council in June, 2016 and the amended policies endorsed by Council in August, 2016. Two significant changes in the modification were the removal the policy that only permitted secondary dwelling units in owner

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occupied units and a policy would not permit secondary dwelling units in Near-Campus Neighbourhoods was added.

February, 2017 – Council requested that civic administration report back at a future meeting with respect to the policy regulating Secondary Dwelling Units. This report follows those community and advisory committee meetings on the secondary dwelling unit policies and regulations that have been held since February.

Secondary Dwelling Units and *The London Plan*

On February 14, 2017, Municipal Council resolved that:

That the following actions be taken with respect to the Minister’s modifications to the London Plan as they relate to secondary dwelling units and specifically Policy 942:

a) *the report of the Managing Director, Planning and City Planner, dated February 6, 2017 and entitled “Minister’s Modifications to the London Plan Secondary Dwelling Units”, BE RECEIVED; and,*

b) *the Civic Administration BE DIRECTED to make the necessary arrangements to hold a Public Participation Meeting before the Planning and Environment Committee to receive input from the public with respect to the Minister’s modifications to the London Plan regarding secondary dwelling units;*

it being noted that the Planning and Environment Committee received a delegation and the ~~attached~~ communication from Mr. J. Schlemmer, Neighbourhood Legal Services with respect to this matter. (2017-D09)

The purpose of this report is to recommend new policies for Secondary Dwelling Units to the current (1989) Official Plan to be consistent with the Secondary Dwelling Unit policies of The London Plan, as modified by the Minister of Municipal Affairs, and to report back on the consultation undertaken to receive input from the public regarding the Minister’s modifications.

ANALYSIS

Minister’s Modifications to *The London Plan*

On December 28, 2016, The Ministry of Municipal Affairs issued a Notice of Decision to approve, with modifications, the new Official Plan for the City of London (*The London Plan*). The Minister made 29 modifications to the Plan as adopted by City Council on June 23, 2016. One of the modifications was to Policy 942, which relates to secondary dwelling units. This substantive change to *The London Plan* consists of several modifications to the secondary dwelling unit policies; as part of these modification, the Minister removed the requirement for the primary unit to be owner occupied; however, the Minister did not modify the Plan to reflect the change submitted in August 2016, which amended to policies to permit secondary dwelling units within Near-Campus Neighbourhoods.

As a result of these modifications, staff met with Ministry Staff to clarify the rationale behind these changes. The Ministry noted the following:

- Ministry staff had two primary goals in their review of *The London Plan* policies:
 1. Respect the decisions of London City Council in their consideration of secondary dwelling units.
 2. Consistent with the Minister’s direction noted above, ensure permissive Official Plan policies that would avoid onerous conditions and restrictions on the

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development of secondary dwelling units.

- The Ministry used the Council-adopted June, 2016 policies included in *The London Plan* as the basis for their approval.
- The Ministry also reviewed the revised policies sent by Council in August of 2016, and integrated some of these policies into their modification of the June 2016 policies.
- In doing so, the Ministry made the following changes to the June 2016 policies that removed restrictions for secondary dwelling units:
 - Removed reference to the secondary dwelling unit being clearly ancillary and subordinate to the primary residential unit.
 - Removed policies that place bedroom limitations on the secondary dwelling unit and the total number of bedrooms for the secondary and primary dwelling unit (Ministry Staff have indicated that the regulations of the applicable zone can address the issue of total number of bedroom units).
 - Removed the requirement that the primary unit be owner occupied.
 - Removed the prohibition of exterior alterations in the front or exterior side yards and replaced it with language that ensures such alterations should maintain the character of the primary dwelling unit and protect neighbourhood character.
 - Removed the requirement for a parking space to accommodate a secondary dwelling unit.
 - Other minor changes of a more technical nature.

The June 2016 secondary dwelling unit policies included a provision that did not permit secondary dwelling units within the Near-Campus Neighbourhood Area. The Ministry did not remove this provision, even though the amended policies adopted by Council in their August 2016 policy revisions had removed this provision. Ministry Staff indicated that they believed that this was reasonable, recognizing the modifications made to the secondary dwelling unit policies eliminated several other restrictions from the June 2016 policies. Ministry Staff did indicate that the Ministry would have no concerns if Council wished to remove this restriction relating to secondary dwelling units in the Near-Campus Neighbourhood.

Community Consultation

Following the Council direction of February 2017, staff attended three meetings (London Housing Advisory Committee, Town and Gown Committee, and an advertised public meeting for those who provided input and comment through the secondary dwelling unit policy review) to review the secondary dwelling unit policies. Notice was also provided to all those who participated in the review process to invite them to the public meeting and to provide comments. A Notice of the meeting was also published in *Living in the City*. At these meetings, the Minister’s modifications to *The London Plan* secondary dwelling unit policies were presented, as well as information regarding the amended Near-Campus Neighbourhood policies.

The following is a summary of this consultation:

London Housing Advisory Committee: Staff attended the May 10, 2017 meeting of the committee. There was much discussion regarding the concept of owner occupancy as a requirement for secondary dwelling units. The Committee resolved that they were in support of the proposed policies as modified by the Minister.

Town & Gown Committee: Staff attended the May 12, 2017 meeting of the committee and provided a presentation outlining the proposed policies following the Minister’s modifications to *The London Plan*. The Committee did not take apposition on the revised policies, and resolved to receive the Staff report.

Community Meeting: On May 18th a community meeting was held at City Hall. In addition to a notice in *Living in the City*, invitations were sent to community and ratepayer groups and individuals who participated in the secondary dwelling unit policy review process. Sixteen community members were in attendance.

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One community member, a landlord, indicated that the inability to break multiple bedroom houses into smaller units was “reducing the quality of tenants” he could attract. He commented that renting a house with five or more bedrooms as a single entity tends to attract younger less studious students, whereas two- and three-bedroom units increase the probability of attracting higher-year less boisterous tenants to the unit.

One individual present indicated that as a member of the St. George-Grosvenor Neighbourhood they would be in support of the status quo, meaning maintaining the Near-Campus Neighbourhood exclusion, given the possibility of an owner occupancy requirement is no longer feasible.

One individual indicated that as a resident of the Orchard Park neighbourhood they would like to be able to avail of a secondary dwelling unit in the future as part of their long-term plan to age-in-place.

Written Responses:

The Sherwood Forest Orchard Park Ratepayers Association has provided a written response indicating that they “support the Minister’s position that SDUs should not be permitted as of right in the Great Near Campus Area of the City.” The letter indicated that this was the result of discussions at their AGM with 150 in attendance.

Written comments on behalf of the London Property Management Association (LPMA) were also provided. In it they requested that “grandfathering” of all secondary dwelling units built prior to the passing of this zoning by-law amendment be put in place. This runs in direct contradiction to the guidance the Ministry of Municipal Affairs provided to accompany Bill 140, noting specifically that there were no grandfathering provisions in the legislation. The LPMA also commented to oppose the owner occupancy requirement which was in previously proposed amendments and which was removed through the Minister’s modification to *The London Plan*. The LPMA further commented to oppose the one-bedroom limit for secondary dwelling units within previously proposed amendments which was removed through the Minister’s modifications to *The London Plan*. Neither the one-bedroom limit, nor the owner-occupancy requirement opposed by the LPMA are contained within the amendments proposed in this report.

Recommended Official Plan Policy Amendment and Zoning By-law Amendment

Official Plan

Under the *Strong Communities through Affordable Housing Act, 2011*, municipalities were directed to amend their Official Plans to provide policy outlining the permissions for secondary dwelling units. The following policies form the proposed policy framework for Secondary Dwelling Units in the Official Plan, 1989. These policies would be consistent with the policies as modified by the Minister, and now in *The London Plan*. As a result of the consultation and input received, Staff are not recommending any changes to the policies as they now appear in *The London Plan*.

As a result of this Official Plan Amendment, the policies of current Official Plan and *The London Plan* will align, and this consistent policy direction will be provided while *The London Plan* is under appeal. It is important to note that neither policies related to secondary dwelling units or the zoning by-law amendment required to implement those policies is appealable to the Ontario Municipal Board.

The recommended policies and rationale are provided below:

1. *A maximum of one (1) secondary dwelling unit per primary dwelling unit is*

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permitted, and must be located on the same lot as the primary dwelling unit;

This policy limits the number of secondary dwelling units per lot to clarify that secondary dwelling units are contained within the primary dwelling unit.

2. *Secondary dwelling units will not be permitted within the Near-Campus Neighbourhood area as defined in Figure 1 Near-Campus Neighbourhoods Area within Chapter 3 of this plan;*

The secondary dwelling unit policies of *The London Plan* as modified by the Minister, exclude secondary dwelling units from the Near-Campus Neighbourhood area. Meetings between Staff, advisory committees and the community indicate there is concurrence with this approach.

3. *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 meeting the license conditions and receiving a license.

4. *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 by limiting its size relative to the primary dwelling unit with which it is associated.

5. *A secondary dwelling unit shall comply with all regulations of the associated zone.*

Secondary dwelling units are to be provided for as-of-right in association with single-detached, semi-detached and street townhouse dwelling. This requirement ensures that a secondary dwelling unit would meet the zoning provisions for sites where a secondary dwelling unit is to be established.

6. *Exterior alterations to the primary dwelling unit to provide for secondary dwelling units in the front or exterior side yards should maintain the character of the primary dwelling unit. To protect neighbourhood character, access to secondary dwelling units may be through existing entrances or new entrances located in rear or side yards;*
7. *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;*

These policies are to ensure that alterations made to provide secondary dwelling units do not affect the appearance of the primary dwelling unit and alter the 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 and maintain the existing streetscape. These policies also ensure that the lot requirements such as lot area, coverage, setbacks, parking and landscaped areas are maintained. These requirements are to ensure that the form and massing is consistent with the character of the

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area.

8. *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. *is in association with a primary dwelling unit which does not contain a secondary dwelling unit; and,*
 - d. *is located in the rear yard;*

The changes to the *Planning Act* that provide for secondary dwelling units require that secondary dwelling units may be permitted in accessory structures. This policy is to clarify that the secondary dwelling unit may be located in either 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. The policy permitting one secondary dwelling unit per lot would also apply.

9. *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 that are wholly contained within an existing dwelling would result in minor to no changes to the site and therefore, would not require Site Plan Approval. Within an accessory structure, the location of the structure on the site is an important matter that could have potential neighbourhood impacts, and affect the site grading and drainage, matters that are considered as part of site plan approval.

10. *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;*

Through the policy development process concerns were raised related to the health and safety of occupants. As such, secondary dwelling units shall not be permitted in locations where there is an identified natural hazard such as the potential for flooding.

11. *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 parking that is in a location that conforms to the Zoning By-law.*

The intention is that secondary dwelling units do not create new parking arrangements which would impact the existing character of a neighbourhood.

Zoning By-law

The Zoning By-law does not currently provide for secondary dwelling units within the permitted residential dwelling types. To implement the Official Plan policies on secondary dwelling uses, the following provisions are recommended to permit the establishment of Secondary Dwelling units. The Zoning By-law proposed is intended to implement both the amended policies proposed for the current Official Plan and the modified, approved policies of *The London Plan*.

The proposed amendments provide a definition for the secondary dwelling unit use. The definition reads as follows:

“SECONDARY DWELLING UNIT means a dwelling unit ancillary and subordinate to a primary dwelling unit, in which food preparation, eating, living,

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sleeping and sanitary facilities are provided for the exclusive use of the occupants thereof.”

The proposed amendments provide for the addition of the following regulations to Section 4 – General Provisions to provide regulation which apply to secondary dwelling units city-wide and in all zones.

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 in association with the following uses:

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

Single detached dwellings, semi-detached dwellings or street townhouse dwellings containing a secondary dwelling unit on the date of the passing of this by-law, may continue to be used for that purpose if a building permit has been issued under sections 8 or 10 of the Building Code Act, 1992, S.O. 1992, c.23 permitting the erection, alteration, occupancy or use for the secondary dwelling unit, and if the secondary dwelling unit complies with the regulations of the Fire Protection and Prevention Act, 1997, S.O. 1997, c.4..

2) *Number of Secondary Dwelling Units Per Lot*

A maximum of one (1) secondary dwelling unit shall be permitted per lot; and 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 that it is accessory to.

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.

A secondary dwelling unit shall not be permitted within the Near-Campus Neighbourhood Area as defined in Figure 4.35.

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

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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 metres.

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) *Number of Bedrooms*

The secondary dwelling unit and primary dwelling unit together shall not exceed the total number of bedrooms permitted for the primary dwelling unit when the total number of bedrooms in the primary and secondary dwelling unit are combined.

7) *Access to Secondary Dwelling Units*

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

A new additional driveway in association with a secondary dwelling unit is not permitted.

8) *Secondary Dwelling Units in Accessory Structures*

Exterior alterations to accessory structures to 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.

These proposed zoning regulations are directly aligned with the recommended policies. These regulations act as implementation tools for the Official Plan policies as recommended, and the Minister-approved London Plan. It should be noted that these proposed zoning by-law amendments would mean that a Zoning by-law amendment would not be required to establish a secondary dwelling unit provided that the requirements of the Zoning By-law (as amended) are met. A site plan application would be required only for secondary dwelling units within an accessory structure.

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CONCLUSION

The City of London is required to establish policies to provide for secondary dwelling units as a result of amendments to the *Planning Act* arising from 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* and bring the Official Plan, 1989 into alignment with the Minister's modifications to *The London Plan*.

The recommended amendments are intended to address concerns related to potential impacts from secondary dwelling units that have been raised by the community, and will address previous concerns raised about the presence of secondary dwelling units within the Near-Campus Neighbourhood Area. The recommended policies are consistent with the intent of the revisions to the *Planning Act* that were made through Bill 140 to provide for affordable homeownership, affordable rental housing, 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	

July 5, 2017

LM/GB

Appendix A: Official Plan, 1989 Amendment

Appendix B: Zoning By-law Amendment

Appendix C: Correspondence Received

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Appendix "A"

Bill No. (number to be inserted by
Clerk's Office) 2017

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 July 25, 2017.

Matt Brown,
Mayor

Catharine Saunders
City Clerk

First Reading – July 25, 2017
Second Reading – July 25, 2017
Third Reading – July 25, 2017

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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 amendment brings the City of London Official Plan, 1989 policies relating to secondary dwelling units in line with the policies in *The London Plan, 2016* as approved by the Minister.

D. THE AMENDMENT

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

1. By deleting the existing subsection 3.2.3.9 in its entirety and inserting the following policy as subsection 3.2.3.9 of the Official Plan

3.2.3.9 Secondary Dwelling Units Secondary dwelling units are permitted as-of-right within single detached dwellings, semi-detached dwellings or a street townhouse dwelling where all of the following criteria are met:

1. 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;
2. Secondary dwelling units will not be permitted within the Near-Campus Neighbourhood area as defined in Figure 1 Near-Campus Neighbourhoods Area within Chapter 3 of this plan;
3. Secondary dwelling units shall be required to be licensed pursuant to the Residential Rental Unit Licensing By-law;
4. 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;
5. A secondary dwelling unit shall comply with all regulations of the associated zone.
6. Exterior alterations to the primary dwelling unit to provide for secondary dwelling units in the front or exterior side yards should maintain the character of the primary dwelling unit. To

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- protect neighbourhood character, access to secondary dwelling units may be through existing entrances or new entrances located in rear or side yards;
7. 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;
 8. 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. is located in the rear yard;
 - c. meets the requirements of the zone which apply to accessory structures; and,
 - d. is in association with a primary dwelling unit which does not contain a secondary dwelling unit.
 9. 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.
 10. 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;
 11. 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 parking that is in a location that conforms to the Zoning By-law.

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Appendix "B"

Bill No.
2017

By-law No. Z.-1-17 _____

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

WHEREAS **The Corporation of the City of London** has applied to amend the City of London Zoning By-law Z.-1, as amended, to add a definition for a Secondary Dwelling Unit and provide for related general provisions for the use;

AND WHEREAS upon approval of Official Plan Amendment Number ____ this rezoning will conform to the Official Plan;

NOW 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, as amended, is amended by adding the following definition of a Secondary Dwelling Unit, following directly after the definition for an "Accessory Dwelling Unit";

"SECONDARY DWELLING UNIT means a dwelling unit ancillary and subordinate to a 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, as amended, is amended by adding the following new 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 in association with the following uses:

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

Single detached dwellings, semi-detached dwellings or street townhouse dwellings containing a secondary dwelling unit on the date of the passing of this by-law, may continue to be used for that purpose if a building permit has been issued under sections 8 or 10 of the *Building Code Act, 1992, S.O. 1992, c.23* permitting the erection, alteration, occupancy or use for the secondary dwelling unit, and if the secondary dwelling unit complies with the regulations of the *Fire Protection and Prevention Act, 1997, S.O. 1997, c.4.*

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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; and 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 that it is accessory to.

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.

A secondary dwelling unit shall not be permitted within the Near-Campus Neighbourhood Area as defined in Figure 4.35.

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 metres.

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.

6) Number of Bedrooms

The secondary dwelling unit and primary dwelling unit together shall not exceed the total number of bedrooms permitted for the primary dwelling unit when the total number of bedrooms in the primary and secondary dwelling unit are combined.

7) Access to Secondary Dwelling Units

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

A new additional driveway in association with a secondary dwelling unit is not permitted.

8) Secondary Dwelling Units in Accessory Structures

Exterior alterations to accessory structures to 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.”

3. 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 July 25, 2017

Matt Brown
Mayor

Catharine Saunders
City Clerk

First Reading – July 25, 2017
Second Reading – July 25, 2017
Third Reading – July 25, 2017

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Appendix “C”



Reply to London
One London Place
255 Queens Ave., 11th Floor
London, ON N6A 5R8
T 519 672-9330
F 519 672-5960

Kitchener
55 King St. West
Suite 801
Kitchener, ON N2G 4W1
T 226 476-4444
F 519 576-2830

Sarnia
1350 L'Heritage Dr.
Sarnia, ON N7S 6H8
T 519 344-2020
F 519 672-5960

Chatham
101 Keil Dr. South, Unit 2
P.O. Box 420
Chatham, ON N7M 5K6
T 226 494-1034
F 519 672-5960

April 27, 2017

Via Email: lmaitland@london.ca

Leif Maitland
Planner
City of London
300 Dufferin Avenue, P.O. Box 5035
London, ON N6A 4L9

Dear Mr. Maitland:

Re: Notice of Application to Amend the Official Plan and Zoning By-Law || OZ-8053

We are the lawyers for London Property Management Association (“LPMA”). LPMA is committed to promoting education and professionalism among its more than 500 members, the vast majority of whom are owners and operators of multi-residential rental properties.

The purpose of this letter is to communicate LPMA’s position with respect to proposed amendments to Official Plan and Zoning By-law regarding secondary dwelling units in the City of London (OZ-8053) coming before the Planning & Environment Committee on May 18, 2017.

LPMA has made submissions with respect to OZ-8053 in the past, and would like to reiterate the issues raised in our recent submissions. LPMA supports a proposal to amend the Official Plan and Zoning By-law to permit secondary dwelling units in all areas across the City, including in the Near-Campus Neighbourhood Areas. There are several issues, however, that continue to be of concern to LPMA.

Recommended Policy and Regulations: Official Plan and Zoning By-law

“Grandfathering” Existing Units

While LPMA agrees that existing secondary dwelling units should be required to meet the requirements of the *Building Code* and the *Fire Code*, they should not be required to meet the other policies and regulations that may be imposed on new secondary dwelling units, as has been previously proposed by the City, and as are present in the London Plan. For example, the City previously recommended that the floor area of a secondary dwelling unit may only account for up to 40% of the total area of the dwelling, and there were also recommended restrictions with respect to where entrances to secondary dwelling units would be permitted. If an existing secondary dwelling unit makes up a slightly more than 40% of the total floor area of a dwelling,

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or if the entrance to an existing secondary dwelling unit does not comply with the new policy and regulations, that secondary dwelling unit would become illegal if the previously recommended requirements were enacted.

To require that units such as these be brought into compliance with the newly enacted policies and regulations would put a significant burden on the owners of such units. Not only would they need to incur potentially significant expenses to renovate these units, but there would also be ramifications under the *Residential Tenancies Act, 2006* for these owners if the secondary dwelling unit is occupied by a renter. For example, if the owner is forced to reduce the size of the secondary dwelling unit to meet the square footage conditions, he or she may be required to secure vacant possession of the unit for the purpose of such renovations, thereby forcing a tenant out of an affordable housing unit. In such cases, most tenants do not exercise a “right of first refusal” to go back into the unit because moving at all is a significant inconvenience, so they just move elsewhere. Even if the tenant is not forced to move, the landlord may be required to reduce the rent being charged to the tenant as a result of the reduction of a “facility” previously included in the rent.

The cumulative effect of these provisions is to trigger vacancies of affordable rental units to existing tenants and drive up costs for reasons that have nothing to do with the health, safety or security of tenants, and this in turn either drives landlords (and tenants) out of the market or it triggers vacancies which, following renovations, will be rented out at higher rents to recover the capital cost of renovations. For many landlords, the failure to grandfather the units would also deprive them of one of the intended benefits of secondary dwelling units, being the financial assistance that they provide relative to the escalating costs of maintaining home ownership. While the minor variance process could be utilized to address such issues, it is LPMA’s position that this would simply compound the additional time and expense for the homeowner, which is unnecessary if the definition of secondary dwelling unit; the *Building Code*; and the *Fire Code* are all complied with.

It is LPMA’s position that all existing secondary dwelling units in the City should be “grandfathered”, provided that they meet the proposed definition of a “secondary dwelling unit” and they meet the requirements of the *Building Code* and *Fire Code*. Accordingly, all secondary dwelling units in existence as of the date that the Zoning By-law amendment is passed ought to be permitted to continue to be used for that purpose, so long as they meet the Zoning By-law’s definition of “secondary dwelling unit”, and comply with the requirements of the *Building Code* and the *Fire Code*, regardless of whether such units comply with all of the other requirements provided in the new provisions of the Official Plan and Zoning By-law.

Owner Occupation

While LPMA agrees that the secondary dwelling unit should be ancillary and secondary to the primary dwelling unit, any requirement that the primary dwelling unit be owner-occupied is not necessary. There is no reason why, if there is a secondary dwelling unit that meets the proposed definition and all of the policies and regulations in the proposed amendments to the Official Plan and Zoning By-law, but both the primary and secondary dwelling units are rented out, the secondary dwelling unit should not be recognized.

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In this situation, the existence of the secondary dwelling unit would still provide the same benefits to the owner of the dwelling and the City as a whole as if it were owner-occupied. There would still be a secondary dwelling unit, ancillary to the primary unit, which would increase the City's stock of affordable housing. The existence of the primary and secondary units on the rental market would allow a more economically and socially diverse segment of the population (who may not be able to afford, or may not desire, home-ownership) to live in more areas of the city. This would not increase intensification or land use impacts relative to a situation where the primary dwelling is owner-occupied. If the City's objection to this is based on perceived stereotypes of tenants' conduct versus that of owner occupiers, we suggest that such profiling is inappropriate and submissions by residents to that effect should be rejected.

Removal of the "owner occupant" requirement would also help the homeowner with the costs of owning the home, whether the dwelling generates rental revenue from one or two units. It is economically advantageous for both the homeowner and the City as a whole to allow residents of London to build wealth through equity in homes and create and maintain affordable rental units by permitting both primary and secondary dwelling units to be rented.

It is LPMA's position that any owner-occupation requirement should be removed from the proposed amendments.

Limited Number of Bedrooms

One of the previously recommended policies/regulations was that a secondary dwelling unit may contain only one bedroom, and the recommended maximum total number of bedrooms in the primary and secondary dwelling units is five for a detached dwelling, and three for a semi-detached or townhouse dwelling.

It is LPMA's position that the limit of one bedroom per secondary dwelling unit is not necessary. For example, there is no reason why a secondary dwelling unit with two bedrooms in a five-bedroom dwelling, that meets all other relevant criteria, should not be recognized. Such a secondary dwelling unit would still be clearly ancillary and secondary to the primary dwelling unit, but this additional affordable rental unit would be available to more people, such as those who would require two bedrooms. A single mother or father with a child may not be able to live comfortably in a one-bedroom secondary dwelling unit, but if there is a second bedroom, perhaps they could. Limiting the number of bedrooms to one when there is already a policy/regulation with respect to the maximum relative area of the primary and secondary dwelling units, is unnecessary in LPMA's opinion.

Likewise, it is LPMA's position that the proposed policy/regulation limiting the total number of bedrooms in the primary and secondary dwelling units to five (or three for semi-detached or townhouse dwellings) is also unnecessary. Again, provided that all of the other relevant requirements are met, there is no reason to prohibit the owner of a larger dwelling that contains six or more bedrooms from having a secondary dwelling unit, ancillary to a primary dwelling unit. The owner of such a dwelling would still benefit from the financial assistance of rental income from the secondary dwelling unit, and/or would benefit from the ability to have a family member or caregiver living in the secondary dwelling unit. It would also provide more affordable housing in more areas of the City, improving the City's diversity in more areas.

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It is LPMA's position that any proposed restriction on the number of bedrooms permitted in a secondary dwelling unit, as well as any restriction on the overall number of bedrooms in the dwelling as a whole, should be removed.

The City's current proposals outlined above, to which LPMA has articulated its objections, are proposals which defeat objectives of "inclusionary zoning"; affordable and diverse rental housing; and diversity of neighborhoods while achieving continued financial independence for homeowners who find it necessary to have supplementary income to support continued home ownership. We are hopeful that Council and staff will take a principled and comprehensive approach to the by-law to ensure that it works for all residents in London.

We appreciate your attention to and consideration of this submission.

Yours very truly,

COHEN HIGHLEY LLP



signature electronically affixed

Joe Hoffer, Partner
 JJH:mwm
 email: hoffer@cohenhighley.com

cc : LPMA

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File No.: OZ-8053
Planner: L. Maitland

ORCHARD PARK SHERWOOD FOREST RATEPAYERS



June 12, 2017

Leif Maitland
Planner
City of London

Re: Secondary Dwelling Units

At its Annual General Meeting of May 25, 2017, which roughly 150 people attended, the matter of Secondary Dwelling Units was discussed. Members were told of the Minister's modifications to the London Plan regarding Secondary Dwelling Units (SDUs). Members overwhelmingly directed me to write you with the following position:

We support the Minister's position that SDUs should not be permitted as of right in the Great Near Campus Area of the City.

Members of our association were made aware that this is not a ban but rather there should be an application for a change in zoning or variance before such units are considered in the Great Near Campus Area.

If you require any additional information, please do not hesitate to contact the undersigned.

Sincerely

Sandy Levin
President
Orchard Park/Sherwood Forest Ratepayers
59 Longbow Road
London, ON
N6G 1Y5

Cc: Councillor P. Squire