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Planner: E. Lalande

<b>TO:</b>	<b>CHAIR AND MEMBERS PLANNING AND ENVIRONMENT COMMITTEE MEETING ON JUNE 18, 2012</b>
<b>FROM:</b>	<b>JOHN M. FLEMING DIRECTOR OF LAND USE PLANNING AND CITY PLANNER</b>
<b>SUBJECT:</b>	<b>SECONDARY DWELLING UNIT POLICIES AND PROVISIONS</b>

<b>RECOMMENDATION</b>
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That, on the recommendation of the Director of Land Use Planning and City Planner, the following report **BE RECEIVED** for information regarding recent changes to the *Planning Act* related to secondary dwelling units; and that staff **BE DIRECTED** to:

- a) prepare a draft Official Plan amendment to implement secondary dwelling units policies in conformity with recent changes to the *Planning Act*; and
- b) prepare a draft Zoning By-law amendment to implement secondary dwelling units regulations to conform to the Official Plan.

<b>PREVIOUS ITEMS PERTINENT TO THIS MATTER</b>
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None

<b>PURPOSE AND EFFECT OF RECOMMENDED ACTION</b>
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This report is to inform Municipal Council of recent modifications to the *Planning Act* regarding secondary dwelling units. As a result of these changes, Council must update its Official Plan and Zoning By-law.

With Council's direction, Planning staff will undertake an Official Plan and Zoning By-law amendment process to develop regulations and standards to allow for secondary dwelling units. Staff will then return to Council with draft Official Plan and Zoning By-law amendments for adoption.

<b>BACKGROUND</b>
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**New Provincial Legislation**

Recently, the Provincial government adopted new legislation under Bill 140. The Bill created the *Strong Communities through Affordable Housing Act*, which included changes to the *Planning Act*. The new legislation **requires** municipalities to develop policies in their Official Plan to provide for secondary dwelling units within single detached, semi-detached and townhouse units. These changes are intended to protect and enhance affordable housing opportunities and identify affordable housing as a Provincial interest.

Policies shall allow for additional units within single detached, semi-detached, and townhouse units, as well as in ancillary structures such as a detached garage. In addition to including policies to allow for secondary dwelling units, the municipality may regulate a number of components such as location, form, and intensity.

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**Changes to the Planning Act**

The modifications made by Bill 140 to the *Planning Act* came into effect on January 1, 2012. The primary change 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.”*

A number of other changes to the *Planning Act* set out how Section 16 is to be implemented. Through these changes, the municipality must update its existing secondary dwelling unit policies to comply with the *Act*. The Official Plan and Zoning By-law may set regulations and standards to determine where and how secondary dwelling units may be established.

Additional changes include a restriction on appeal rights regarding applications for secondary dwelling units. The policies and provisions established by the City to regulate secondary dwelling units may not be appealed to the Ontario Municipal Board. Further, a decision to permit secondary dwelling units under section 34 (zoning) of the *Act* in accordance with policies and provisions set by the City may not be appealed. This appeal restriction is limited to the first secondary dwelling on a lot. The removal of a right to appeal is to provide greater certainty when creating a secondary dwelling unit.

The *Act* further includes a maximum temporary allowance of garden suites for up to 20 years, where as 10 years was permitted previously.

**Second Dwelling Unit Terminology**

Secondary dwelling units are self-contained residential dwellings complete with a separate kitchen and bathroom facilities located within, and ancillary to, an existing dwelling. The secondary dwelling unit may be located within an accessory structure such as above a “coach house”. Secondary dwelling units are also subject to the Building Code, Fire Code and the City of London’s property standards by-law.

Secondary dwelling units are also commonly referred to as: accessory dwelling units, secondary suites, accessory apartments, basement apartments, or in-law flats. These terms are interchangeable. Secondary dwelling units do not include garden suites, lodging houses, or converted dwellings.

Garden suites are temporary self-contained dwelling structures. These units are permitted in agricultural areas through a temporary Zoning By-law on a site-specific basis. Currently, two sites in London are permitted a garden suite, both of which are located outside the urban growth boundary. Lodging houses are residential buildings, which are used to provide rooms for rent to individuals with or without meals. Each unit shares, in part, common living space such as a kitchen, living room, bathroom, etc. Converted dwelling means an existing dwelling constructed as a single, semi-detached, duplex or triplex dwelling on an existing lot prior to July 1, 1993 in which the number of dwelling units has been increased without significant alteration to the exterior of the building except for non-leasable floor such as fire escapes, stairwells and entrances.

As part of this review, the numerous definitions related to secondary dwelling units will need to be reviewed to ensure that the intent of the proposed policy amendments is clear and that any units that may be created “as of right” through these policies are clearly distinguished from other types of secondary or ancillary dwelling units.

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**Current Policies**

Through OPA 438, Council adopted policies related to accessory dwelling units. These policies were prepared in anticipation of changes now implemented by the *Planning Act*. The scope of uses permitted by the legislative changes is greater than those currently permitted in the City's Official Plan. Further, the City's policies rely on conditional zoning, which has yet to be implemented by the Province.

The City of London's existing Official Plan policies for establishing secondary (accessory) dwelling units may consider second 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 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 will serve as the basis for developing new secondary dwelling unit policies in conformity with the *Planning Act*.

<b>CONCLUSION</b>
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Planning staff will prepare draft Official Plan and for public review and comment. Staff will consider such initiatives such as the Greater Near-Campus Neighbourhood study, and the City intensification policies in the development of these secondary dwelling unit policies. In order to ensure that the policies can be effectively implemented a draft Zoning By-law amendment will be prepared and circulated for review and comment with the proposed Official Plan amendment.

<b>PREPARED BY:</b>	<b>SUBMITTED BY:</b>
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<b>RECOMMENDED BY:</b>	
<b>JOHN M. FLEMING, MCIP, RPP DIRECTOR OF LAND USE PLANNING AND CITY PLANNER</b>	

June 11, 2012