



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

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| TO: | Chair and Members Planning Committee |
| COMMITTEE DATE: | April 6, 2021 |
| SUBJECT/REPORT NO: | Secondary Dwelling Units in the Urban and Rural Areas - Zoning By-law and associated implementation amendments to the Parkland Dedication By-law and Tariff of Fees By-law for Minor Variance Applications (Committee of Adjustment Application Fee) (CI 20-E and CI 21-A) (PED20093(a)) (City Wide) |
| WARD(S) AFFECTED: | City Wide |
| PREPARED BY: | Timothy Lee (905) 546-2424 Ext. 1249 Joanne Hickey-Evans (905) 546-2424 Ext. 1282 |
| SUBMITTED BY: | Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department |
| SIGNATURE: | |

RECOMMENDATIONS

- (a) That City Initiative 21-A respecting amendments to Zoning By-law No. 05-200 to add new regulations respecting interpretations of the Zoning By-law and to delete and replace the accessory building and structures regulations that have been identified to require revisions as a result of introducing Secondary Dwelling Unit Regulations and gaps within the regulations, be approved on the following basis:
 - (i) That the draft By-law to amend Zoning By-law No. 05-200, attached as Appendix “A1” to Report PED20093(a), which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
 - (ii) That the proposed changes in zoning are consistent with the Provincial Policy Statement (2020), conform with A Place to Grow Plan, as amended (2019) and comply with the Rural and Urban Hamilton Official Plans.

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- (b) That **City Initiative 20-E** respecting amendments to Zoning By-law No. 05-200 and the Zoning By-laws applicable to the Town of Ancaster, Town of Dundas, Town of Flamborough, Township of Glanbrook, City of Hamilton, and City of Stoney Creek Zoning By-laws, to amend the zoning by-law regulations for single detached dwellings, semi-detached dwellings and townhouse dwellings, to permit secondary dwelling units, either as an accessory unit within the dwelling, within a detached structure accessory to the principle dwelling unit, or both, be approved on the following basis:
- (i) That the draft By-law to amend Zoning By-law No. 05-200, attached as Appendix “A2” to Report PED20093(a), which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
 - (ii) That the draft By-law to amend the Town of Ancaster Zoning By-law No. 87-57, attached as Appendix “B” to Report PED20093(a), which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
 - (iii) That the draft By-law to amend the Town of Dundas Zoning By-law No. 3581-86, attached as Appendix “C” to Report PED20093(a), which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
 - (iv) That the draft By-law to amend Town of Flamborough Zoning By-law No. 90-145-Z, attached as Appendix “D” to Report PED20093(a), which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
 - (v) That the draft By-law to amend Township of Glanbrook Zoning By-law No. 464, attached as Appendix “E” to Report PED20093(a), which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
 - (vi) That the draft By-law to amend City of Hamilton Zoning By-law No. 6593, attached as Appendix “F” to Report PED20093(a), which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
 - (vii) That the draft By-law to amend City of Stoney Creek Zoning By-law No. 3692-92, attached as Appendix “G” to Report PED20093(a), which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;

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- (viii) That the proposed changes in zoning are consistent with the Provincial Policy Statement (2020), conform with A Place to Grow Plan, as amended (2019) and comply with the Rural and Urban Hamilton Official Plans.
- (c) That the following By-laws respecting amendments to Zoning By-law No. 6593 be repealed in their entirety once the proposed By-law, attached as Appendix “F” to Report PED20093(a), are final and binding:
- (i) By-law No.19-307, the Temporary Use By-law respecting second Dwelling Units for Certain Lands Bounded by Queen Street, Hamilton Harbour, the former Hamilton/Dundas Municipal boundary, Niagara Escarpment, Upper Wellington Street, the former Ancaster/Hamilton Municipal boundary, and the former Hamilton/Glanbrook Municipal boundary;
 - (ii) By-law No. 18-299 respecting Second Dwelling Units (Laneway Houses) for Certain Lands Bounded by Highway 403, Burlington Street, Red Hill Valley and the Escarpment.
- (d) That the draft By-law to amend the Parkland Dedication By-law No. 18-126, attached as Appendix “H1” to Report PED20093(a), be enacted by City Council.
- (e) That the draft By-law to amend the Tariff of Fees By-law No. 12-282, as amended by By-law No. 19-108, to introduce a reduced fee for Committee of Adjustment applications for secondary dwelling units, attached as Appendix “H2” to Report PED20093(a), be enacted by City Council.
- (f) That the matter respecting Second Dwelling Units – Options to Increase Housing Supply in Hamilton’s Low Density Existing Housing Stock be considered complete and removed from the Planning Committee’s Outstanding Business List.

EXECUTIVE SUMMARY

On June 6, 2019, the Province passed Bill 108 Bill (*More Homes, More Choice Act, 2019*) requiring municipalities to permit Secondary Dwelling Units in their Official Plans and Zoning By-laws to increase housing options province wide.

To implement the new provincial requirement, in December, 2020, Planning Committee and Council approved Amendments to the Urban Hamilton Official Plan and Rural Hamilton Official Plan to permit Secondary Dwelling Units city-wide in all single detached, semi-detached, and street townhouse dwellings. The implementing Official

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Plan Amendments (RHOP OPA No. 26 and UHOP OPA No. 142) were adopted by Council on January 27, 2021 and are in effect.

The purpose of this report is to establish, within the relevant Zoning By-laws, the standards SDUs will have to meet (e.g. heights, setbacks, servicing, parking, etc.). This report includes a package of proposed Zoning By-law regulations as well as related amendments to the Parkland Dedication By-law and Tariff of Fees By-law relating to Secondary Dwelling Units.

The proposed Zoning By-laws for the six former municipalities and Hamilton Zoning By-law No. 05-200, are attached as Appendices “A2” to “G” to Report PED20093(a). A summary of the specific regulations is detailed in Appendix “M-1” to Report PED20093(a).

Specifically, the proposed changes include the following:

- 1) Amended regulations for accessory buildings in Zoning By-law 05-200. The existing regulations have been expanded on several occasions since the 2005 Zoning By-law was passed but they do not include up-to-date regulations for low density residential uses. As a result of the introduction of SDUs in Zoning By-law No. 05-200, it is an appropriate time to update the accessory building regulations so they could be applied as supplementary regulations for SDUs and avoid conflicts/discrepancies between the two sets of regulations;
- 2) New regulations to be added to Zoning By-law No. 05-200 that would allow for the introduction of regulation diagrams as information guides and the use of tables for regulations and permitted uses. These new regulations are intended to make Zoning By-law 05-200 easier to read and interpret;
- 3) New regulations for Secondary Dwelling Units (SDUs) to be added to Zoning By-law No.05-200 and the six former municipal Zoning By-laws. This report is a follow up to the Second Dwelling Units – Options to Increase Housing Supply in Hamilton’s Urban Area Discussion Paper that was approved by Planning Committee on September 20, 2020 and City Council on September 28, 2020; and,
- 4) Two new fee structures to support the establishment of SDUs. They include changes to the Parkland Dedication Fee and a reduced fee for Committee of Adjustment applications for SDUs.

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Proposed Secondary Dwelling Unit Regulations

A Secondary Dwelling Unit (SDU) is a self-contained accessory dwelling unit (a.k.a. “an accessory apartment”) either within a single detached, semi-detached or townhouse/rowhouse dwelling or within a detached structure, either purpose built or through conversion of an existing structure (a.k.a. a “laneway house”).

This report is recommending a set of comprehensive amendments to the Zoning By-laws in effect for the urban and rural areas to harmonize and update the zoning regulations relating to SDUs as follows:

General Regulations for Urban and Rural Areas

- Add four new Definitions
 - Secondary Dwelling Unit means a separate and self-contained Dwelling Unit that is accessory to and located within the principal dwelling.
 - Secondary Dwelling Unit- Detached means a separate and self-contained detached Dwelling Unit that is accessory to and located on the same lot as the principal dwelling.
 - Swale; and,
 - Ditch.
- Parking requirements
 - 1 parking space per SDU except in a portion of the lower City roughly bounded by Highway 403 in the west, south of the industrial area to the north, the Niagara Escarpment to the south, and Ottawa Street to the east. where the existing built form does not allow for on-site parking;
 - 50% of the required front yards to be landscaped.
 - one driveway per lot except on a corner lot where one driveway per street.
- Design Regulations
 - Add minimum requirements for landscaped area for each dwelling unit on the site and provide for fencing and/or screening on 2 sides of the landscaped area for a detached SDU.
- Technical changes to by-law definitions and regulations to ensure consistency and interpretation of SDU requirements.

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Urban Area Specific Regulations

SDU within a principal dwelling

- One front door facing the street as required in the Urban Area only, except in a portion of the lower City where additional entrances are permitted to face the street, see Appendix “M-2” to Report PED20093(a).
- Exterior stairs above the first floor, unless it is for an emergency exit, will not be permitted.

Detached SDU (new construction)

- Locational requirements
 - permitted in the rear and side yards with setbacks from neighbouring properties and the existing house required;
 - maximum lot coverage (varies depends on the Zoning By-law); and,
 - establish setbacks from adjacent properties and swales to maintain existing grading and drainage.
- Health and safety requirements
 - setback requirements for free and clear access to the detached SDU in the rear/side yard.
- Design requirements
 - maximum height (6 metres) and size (75 m²), window location (both storeys), balconies/patios (at grade).

Detached SDU (conversion of existing accessory structure)

- Permitted within existing building provided it meets the health and safety requirements in accordance with the Ontario Building Code.
- Additions over 10% of the floor area of the existing building must meet the size and height requirements of a detached SDU.

Rural Area Specific Regulations

SDU within a principal dwelling only

- One front door; and,

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- Requirement to prove adequate private services exist to ensure the long term sustainability of the private servicing (i.e. well and septic system) regime.

Phasing of Zoning Changes

The SDU review is being undertaken in phases as follows:

Phase 1 - In advance of the completion of the new residential zones in Hamilton Zoning By-law No. 05-200, it is proposed that staff create a set of Zoning regulations for the six former municipal Zoning By-laws and Hamilton Zoning By-law No. 05-200 to permit SDUs Citywide. SDUs within a single detached and semi-detached dwelling would be permitted in the Rural Area. These regulations will remain in effect until the Residential Zone Project has been incorporated into Hamilton Zoning By-law No. 05-200 and all former municipal Zoning By-laws are repealed and are no longer in effect.

Phase 2 – This phase focuses on permitting detached SDUs in the Rural Area. Additional work is required to identify and address potential sustainable servicing impacts that detached SDUs might have in the Rural Area such as ground water protection, adequate services (wastewater and sewage disposal) and lot size requirements.

Public Engagement

Public engagement occurred through the Engage Hamilton portal. A variety of online and virtual methods were used to engage residents and obtain feedback of the issues and themes identified in the SDU Discussion Paper. The engagement tools used included Urban and Rural Area online surveys, an online Q&A forum, small group and individual discussions by telephone, and a project email address.

Stakeholder Meetings were held with stakeholders such as architects, planners, the West End Homebuilders Association, Neighbourhood Associations and Environment Hamilton. The purpose of these workshops was to seek feedback from the attendee's respective lenses on potential SDU zoning regulations.

Two Virtual Town Hall Meetings were held for the general public. Similar to the stakeholder meetings, the purpose of these meetings was two-fold: one, to seek feedback on the future regulations for SDUs; and two, to educate the public about the importance of increasing housing opportunities through this form of residential development.

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There was a presentation by staff on the SDUs specifically in the Rural Area to the Agricultural and Rural Affairs Committee.

A summary of all comments received are contained in Appendices “K-1” to “K-6”, and the survey results can be found in Appendices “L-1” and “L-2” attached to Report PED20093(a).

Development Fees

The City currently offers a reduced parkland dedication rate for SDUs, but this reduced rate only applies to one SDU in a single detached dwelling. In order to harmonize this reduced rate with the new proposed zoning permissions for SDUs, staff is recommending that Section 5(5) of the Parkland Dedication By-law 18-126 be amended to extend the reduced parkland dedication rate for SDUs from one secondary dwelling unit in a single detached dwelling to include up to two secondary dwelling units in a single detached, semi-detached, or townhouse dwelling and on a lot containing such dwellings.

The reduced parkland dedication rate for the addition of one secondary dwelling unit in an existing single detached dwelling was first introduced in 2015 to encourage small scale intensification and reconfirmed as part of the 2018 parkland dedication by-law review. At its meeting of May 23, 2018, Council approved Parkland Dedication By-law 18-126 that sets a fixed rate. The current (indexed) rate as of April 1, 2021 is \$1,131 per unit. Based on the 2031 time horizon of the current Official Plans, and the estimated uptake on the construction of new SDUs, this reduced rate would equate to approximately \$1.0 – \$1.4 million in foregone revenue over the next decade. The proposed By-law is attached at Appendix “H1” to Report PED20093(a).

In addition, staff is recommending that any applications for Minor Variances with respect to establishing an SDU be charged the “Routine Minor Variance” fee of \$600 as opposed to the “Full Minor Variance” fee that ranges from \$3,320 to \$4,145. This would treat SDUs the same as accessory structures and legal non-con-forming uses. The proposed Fee By-law amendment is attached at Appendix “H2” to Report PED20093(a).

The current DC By-law permits a residential intensification exemption from DCs for up to two additional dwelling units within an existing Single Detached Dwelling or for one additional dwelling unit in any Semi-detached Dwelling, a Townhouse Dwelling or any other existing Residential Dwelling. Laneway Houses and Garden Suites also receive an exemption from DCs in the City’s current DC By-law. Staff will be presenting a Report on an Amendment to the 2019 Development Charges Background Study and Development Charges By-law (FCS21025) at the March 25, 2021 Audit and Finance

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Committee meeting. The proposed staff report recommends that language be incorporated into the DC By-law to expand the residential intensification exemption above what the DC Act requires so that it is in line with *Planning Act* changes and the proposed SDU regulations.

Alternatives for Consideration – See Page 34

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: *Parkland Dedication By-law* - Applying the current reduced rate of \$1,131 per unit to the addition of up to two secondary dwelling units, instead of the standard rate for a new dwelling of 5% of existing land value (approximately \$6,708 to \$8,944 per unit, depending on the area of the City) would result in estimated foregone revenues over the next 10 years of \$997,000 to \$1.39 million.

Tariff of Fees By-law – Staff is recommending that any applications for Minor Variances with respect to establishing an SDU be charged the “Routine Minor Variance” fee of \$600 as opposed to the “Full Minor Variance” fee of that ranges from \$3,320 to \$4,145. This would treat SDUs the same as accessory structures and legal non-con-forming uses. The proposed Fee By-law amendment is attached at Appendix “H2” to Report PED20093(a).

Staffing: N/A

Legal: As required by the *Planning Act*, Council shall hold at least one Public Meeting to consider amendments to the Zoning By-laws.

Notice of the Public Meeting was placed in the *Hamilton Spectator* and the Community Newspaper on March 19, 2021. A copy of the notice is attached as Appendix “N” to Report PED20093(a).

Subsection 34(19.1) of the *Planning Act* stipulates there is no appeal to parts (including the regulations) of the SDU by-laws that give effect to the UHOP and RHOP policies on SDUs.

The Rural Hamilton Official Plan and the Urban Hamilton Official Plan contain polices to permit SDUs in accordance with the provisions of Bill 108. Therefore, in accordance with Section 34(19.1) of the *Planning Act*, third party appeals of the proposed Zoning By-law Amendments, attached as

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Appendices “A2” to “G”, are not permitted because the City’s Official Plan contains policies permitting secondary dwelling units.

The Accessory buildings by-law, attached as Appendix “A1”, is subject to *Planning Act* appeals.

A separate Notice, required by the City’s Procedural by-laws, was published on March 19, 2021 in the *Spectator* advertising the new Committee of Adjustment fee and the new Parkland Dedication fee.

HISTORICAL BACKGROUND

The concept of accessory dwellings is not new. Accessory units have been permitted in the former City of Hamilton since the 1970s. The Official Plan and Zoning By-laws of the former municipalities also included enabling polices in their Official Plans and/or regulations in the respective Zoning By-law regarding SDUs. Since 2018, Council has approved two pilot/demonstration projects relating to SDUs, as described below.

Laneway Housing (2018)

Council approved a pilot project in 2018 for lands roughly bounded by Lake Ontario, Red Hill Valley Parkway, the Niagara Escarpment, and Hwy 403 to permit Laneway Housing associated with Single Detached Dwellings.

By-law No. 18-299 amended Zoning By-law No. 6593 to permit a detached SDU accessory to a single detached dwelling on a lot that adjoins a laneway for certain areas of the lower City. The zoning regulations were drafted to ensure the relationship between the principal unit and the secondary suite regulations is maintained over time with respect to servicing, access and maintenance thereby responding to concerns that the creation of laneway housing would result in future severance applications to create “flag-shaped” lots to allow for the conveyance of the laneway dwelling unit.

In addition, the 2018 By-law:

- Limits the laneway dwelling to 6m in height and 50 m² in area;
- Restricts the location of windows and doors above 1st floor; and,
- Exempts the laneway dwelling unit from the requirement to require additional parking.

To date, two “laneway” dwellings units have been created within the pilot project area.

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As the proposed City-wide amendments incorporate and update the zoning regulations relating laneway housing / detached SDU's, Planning staff are recommending that Zoning By-law No. 18-299 be repealed in its entirety.

Temporary Use By-law for Accessory Dwelling Units In Wards 1, 8 and 14 (in part) (2019)

In December 2018, Council approved Planning and Economic Development Department staff exploring a Rental Housing Licensing Pilot Project for Wards 1 and 8 (a portion of which is now located within Ward 14). The scope of the Pilot Licensing Project would require owners/landlords of residential properties with less than five residential rental units to obtain a Rental Business Owner Licence. The license would be issued based on review and conformity with the applicable zoning by-law regulations, the Ontario Building Code (OBC) and the Fire Code of Ontario. The review would occur through the Building Permit process.

As a result of stakeholder consultation on a Licensing Pilot Project, stakeholders advised that a possible unintended consequence of the Licencing regime would be the removal of rental market housing units that have been created but that did not comply with the current zoning. In particular, the minimum unit size (65 m²) and the minimum lot area (270 m²) requirements in Zoning By-law No. 6593 were identified as significant barriers to the legalization and/or creation of accessory rental units.

In response to the feedback received, staff brought forward a Temporary Use By-law for lands within Wards 1, 8 and a portion of Ward 14 to revise the requirements of the Zoning By-law in terms of removing the minimum unit size and reducing the required lot area from 270 m² to 200 m². The requirement to provide additional parking associated with the accessory unit was also suspended for lands east of Hwy. 403 in Ward 1. By-law No. 19-307 was passed by Council in December 2019 and will expire in December 2022.

As the proposed City-wide amendments incorporate and update the zoning regulations relating to SDU's within a principle dwelling, Planning staff are recommending that Zoning By-law No. 19-307 be repealed in its entirety.

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POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

1.0 Provincial Legislation and Policy Framework

Bill 108 (*More Homes, More Choice Act, 2019*) received Royal Assent on June 6, 2019 for a broad change to various pieces of legislation such as the *Planning Act*, *Ontario Heritage Act*, and the *Development Charges Act*, amongst others.

Under the provisions of the *Planning Act* (as amended by Bill 108), municipal official plans are now required to contain policies to permit Secondary Dwelling Unit(s) (SDUs). The official plan policies are required to permit:

- two residential units in a detached house, semi-detached house or rowhouse; and,
- to allow a residential unit in a building or structure (either purpose built or conversion of an existing structure) accessory to a detached house, semi-detached house or rowhouse.

To facilitate the implementation of Bill 108, the Province released the Housing Supply Action Plan (HSAP). HSAP is aimed at increasing housing supply in the Province. Permitting SDUs is one of many tools to implement the HSAP.

The proposed Zoning By-law amendments conform to and are consistent with Provincial legislation and policy. A summary of the conformity and consistency with applicable Provincial Plans (A Place to Grow Plan 2019, as amended and Greenbelt Plan, 2017) as well as the Provincial Policy Statement (PPS) 2020 is explained in detail in Report PED20093 which was presented to Planning Committee in September 2020.

2.0 City of Hamilton Official Plan

In December 2020, Planning Committee and Council approved City Initiative CI-19-F – Housekeeping Amendments to the Urban Hamilton Official Plan and Rural Hamilton Official Plan which included proposed policy changes to implement Bill 108 (*More Homes, More Choice Act, 2019*), concerning the requirement for municipalities to establish Official Plan policies to permit Second Dwelling Unit(s) (SDUs). The implementing Official Plan Amendment (RHOP OPA No. 26 and UHOP OPA No. 142) were adopted by Council on January 27, 2021 and are now in effect.

Those amendments to the Official Plans are summarized below:

- Introduced a definition of a Secondary Dwelling Unit (SDU) (UHOP and RHOP);

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- Permitted detached SDUs on lots containing a single detached, semi-detached or townhouse dwelling (UHOP only);
- Renamed “Second Dwelling Unit” to “Secondary Dwelling Unit” (UHOP and RHOP); and,
- In the Rural Area, permitted SDUs containing a single detached dwelling on lots utilizing private services greater than 0.4 hectares in size (RHOP only).

The zoning review for SDU’s in the Rural Area is occurring in two phases. The first phase (which is addressed in this report) is to permit SDU’s within the principle dwelling as an accessory unit. As it relates to detached SDUs, further review is required to address potential issues pertaining to sustainable private servicing and character of the rural landscape.

3.0 Zoning By-laws

There are inconsistencies in terms of both permissions (e.g. allowed or not allowed) and regulations (i.e. age of dwelling, locational requirements and lot/dwelling characteristics) for SDU’s across the existing in force zoning by-laws in the City of Hamilton.

The former City of Hamilton and the Town of Dundas currently permit one additional unit in a principal dwelling, regardless of when the principal dwelling was built. The City of Stoney Creek permits one additional unit for dwellings built before 1941 and the Town of Flamborough has similar permissions for dwellings built before 1990. The Town of Ancaster and the Township of Glanbrook Zoning By-laws do not permit SDUs. The workplan for the new Comprehensive Zoning By-law No. 05-200 anticipated that regulations for SDU’s would be developed at the time of preparation of the Low-Density Residential Zones. However, because single detached, semi-detached and rowhouse units are currently permitted in some zones (i.e. Downtown, Institutional and Rural Zones) and the proposed regulations will apply once the future Residential Zones are added to Zoning By-law No. 05-200, it is proposed to bring forward amendments to Zoning By-law No. 05-200 now for consistency. In addition, regulations for SDUs within a principle dwelling have been included for the applicable Rural zones.

RELEVANT CONSULTATION

1.0 City of Hamilton Departments

The following Divisions and Departments were consulted in the development of the proposed Zoning By-law amendments:

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- Community Safety and Planning Department – Fire Prevention;
- Corporate Services Department – Legal services;
- Healthy and Safe Communities Department – Investment In Affordable Housing Section; and,
- Planning and Economic Development Department – Transportation Planning, Building Division, Growth Management.

Consultation on amendments to the Parkland Dedication By-law include:

- Public Works – Landscape Architectural Services; and,
- Planning and Economic Development Department - Real Estate Section.

2.0 External Public Engagement – Engage Hamilton

Virtually public engagement was undertaken for this project. All project information related to SDUs was made available on both the project page website (<https://www.hamilton.ca/city-planning/official-plan-zoning-by-law/residential-zones-project>) and the Engage Hamilton Project Page (<https://engage.hamilton.ca>).

The Engage Hamilton project page serves as a “one-stop shop” to learn about SDUs and proposed regulations. The website and portal contained the following information and content:

- SDU Discussion Paper, Brochure, and Options Summary Chart.
 - The Brochure was illustrated and contained infographics and summary charts of the proposed regulations by SDU type for quick access to information; and,
 - A summary chart of the proposed Regulations, colour coded and broken down by SDU type, was included as a quick reference guide.
- An online video providing “easy to understand” information. The video included audio and closed caption for the visually impaired and hearing impaired. Further, the video is available as public access on YouTube.
- Surveys to reflect the Urban and Rural Area were created to seek feedback on the proposed regulations that were context specific.
- A “Q&A” segment of the portal included frequently asked questions as well as it allowed participants to ask questions about the project. This method is similar to

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attendees of the PIC asking questions to staff. Responses to each question are available on the Engage Hamilton portal.

- In addition to phone inquiries, individual emails and digital versions of letters were received via the project email address (ResidentialZoning@Hamilton.ca).

Printed versions of the materials and the surveys were also made available upon request.

Appendices “K-1 – K-6” (inclusive), “L-1” and “L-2” to Report PED20093(a) include the comments received through the various forms of public engagement. A response to the comments and feedback received is also provided.

2.1 External Public Engagement – Virtual Stakeholder/Town Hall meetings

Planning staff organized and attended virtual meetings as follows:

- Two separate meetings were held with Neighbourhood Associations and industry representatives for a total of 22 attendees;
- Two separate virtual town hall meetings were held for a total of 60 attendees. Each virtual meeting included a question and answer session; and,
- A presentation was made to the Agricultural and Rural Affairs Committee.

Details of the public engagement techniques and process (workshop dates, times, number of participants) are included in Appendix “J” to Report PED20093(a).

2.2 Key Highlights from Public Engagement

A summary of the feedback and comments on the themes and options contained in the September, 2020 Discussion paper applicable to the urban and rural areas SDU regulations is described below.

In addition, several comments were received pertaining to issues such as property standards, parking enforcement, garbage disposal and snow removal.

2.2.1 Urban Area Regulations

The September 2020 SDU Discussion Paper outlined options for consideration and discussion. Overall, the public feedback received was supportive of SDUs.

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Neighbourhood built form character, unit size, lot coverage and parking were the primary themes/topics that the public provided feedback and comments on as follows

Parking (SDU within the principle residence and/or in a detached structure)

In the Urban Area survey, 22% of respondents supported establishing a City-wide parking standard whereas 62% of respondents said parking exemptions (no parking requirement) is preferred.

A total of 15% of respondents supported having parking exemptions in certain areas of the City.

Through the Town Hall discussions, there was general support to permit tandem parking. Although participants generally recognize that tandem parking might not work from an operational standpoint, the option should still be there to allow it. Tandem parking will only be permitted once required parking (if applicable) have been met onsite.

SDU within the principle dwelling – Access to SDU

Entrances to the SDUs are limited to the side, rear, or internal within the building. Certain areas such as in the Lower City are permitted to have the entrance to face the street (having “two front doors”).

The survey results showed that 66% of the respondents had no preference regarding where and how access to the SDU was provided. Thirty percent (30%) expressed a preference for the access to the SDU be provided from an entrance on the side or rear of the dwelling. Written comments and town hall comments preferred one front door. Based on the feedback, the proposed regulations have not been amended.

SDU within the principle dwelling – Unit Size

Seventy percent (70%) of the survey respondents did not support a maximum dwelling size and 45% of respondents supported a minimum dwelling size. If a minimum size were to be established, half of respondents thought a minimum size of 50 square metres was appropriate. However, it was determined that requirements under the Ontario Building Code was sufficient and allows for flexibility in how small or large the SDU could be.

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Detached SDU – Maximum Lot Coverage

A total of 3 comments were received through email submissions suggesting the proposed 25% lot coverage for all accessory buildings (but not including the principal dwelling) should be higher, as accessory buildings such as detached garages and shed may take up a portion of the lot.

Detached SDU – Maximum Gross Floor Area of 50.0 square metres

Comments received through the virtual town hall meeting and email submissions indicated that 50 square metres was too small and close to 80% of survey respondents indicated the size should be based on lot size. The maximum GFA of 50.0 sq m was based on the Laneway Housing Pilot Project and considered a starting point in the Discussion Paper but after actual proposals were made by architects, it was determined to be insufficient and a larger maximum was needed. As noted below, staff concurred with public feedback and a larger size is proposed. However, the GFA of the detached SDU cannot be larger than the principal dwelling to maintain its accessory nature, and therefore, the concept of unit size for a detached SDU is different from an internal unit.

Detached SDU – Setback and Built Form Requirements

Comments regarding required setbacks from a side or rear lot line were mixed. Some of the comments from the Survey (4 respondents) and via email suggested the setback is not necessary and may create a barrier to narrower lots to accommodate a detached SDU. Alternatively, it was suggested that the City should allow the homeowner to establish their own setback from the property line.

All comments received suggested windows should be allowed with no restrictions. Respondents indicated a preference to allow balconies and rooftop patios above the first floor for design flexibility.

The preference by the majority of respondents is to allow the detached SDU to have the same height as the main house.

3.2 Rural Area

Based on the feedback received, there is overall broad support for permitting SDUs in the Rural Area.

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The most frequent concerns and feedback expressed about the SDU regulations in the Rural Area are:

- Support for not requiring a maximum unit size (68%) or a minimum unit size (62%) for SDUs within a principle dwelling; and,
- Significant interest in allowing detached SDUs. 49% of the respondents would like to build a SDU.

In the rural area, concerns, feedback and questions about the importance of protecting and maintaining the health of the groundwater is a common theme.

Concerns about the potential for a severance of the detached SDUs was raised by the members of the Agricultural and Rural Affairs Committee and the concern that a severance would result in the further fragmentation of the agricultural land base and result in potential land use conflicts between agricultural practises and non-farm rural residential dwellings.

ANALYSIS AND RATIONALE FOR RECOMMENDATIONS

1.0 Introduction

A Secondary Dwelling Unit (SDU) is a self contained accessory dwelling unit (aka “an accessory apartment”) either within a single detached, semi-detached or townhouse/rowhouse dwelling, or a SDU may be located within a detached structure, either purpose built or through conversion of an existing structure (aka a “laneway house”), or both.

Under the provisions of the *Planning Act* (as amended by Bill 108), municipal official plans are required to contain policies to permit Secondary Dwelling Unit(s) (SDUs). Local Official Plan policies are required to permit:

- two residential units in a detached house, semi-detached house or rowhouse; and,
- a residential unit in a building or structure (either purpose built or conversion of an existing structure) accessory to a detached house, semi-detached house or rowhouse.

The *Planning Act* requires that municipalities implement their official plan policies by maintaining up to date zoning by-laws.

The Bill 108 SDU provisions align with Amendment No. 1 to the Growth Plan that came into effect in August 2020. The growth forecasts in Amendment No. 1 are based on

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population, employment and household forecasts prepared by Hemson Consulting for the Province. The Hemson forecasts anticipate that for the 2016 – 2051 time period, 5,200 accessory units will be created in Hamilton, or approximately 150 units annually.

In December, 2020, Planning Committee and Council approved City Initiative CI-19-F – Housekeeping Amendments to the Urban Hamilton Official Plan and Rural Hamilton Official Plan which included policy changes to implement Bill 108 (*More Homes, More Choice Act, 2019*), concerning the requirement for municipalities to establish Official Plan policies to permit Second Dwelling Unit(s) (SDUs). The implementing Official Plan Amendment (RHOP OPA No. 26 and UHOP OPA No. 142) were adopted by Council on January 27, 2021.

This Report is a follow up to the Second Dwelling Units – Options to Increase Housing Supply in Hamilton’s Urban Area Discussion Paper, Brochure, and Second Dwelling Unit Process Map (PED20093) that was approved by Planning Committee on September 20, 2020 and City Council on September 28, 2020.

2.0 Revisions Required to the Zoning By-laws

In response to comments received through the public engagement process and further technical review by staff of the proposed regulations, some of the proposed regulations contained within the Discussion Paper have been modified. The major changes include:

- adding four new definitions: one for a SDU and a separate one for a detached SDU, as well as definitions for a ditch and for a swale;
- increasing the maximum allowable size for a detached SDU, including a regulation where the detached SDU cannot be larger than the principal dwelling;
- locational requirement of a detached SDU wholly located in the interior side yard;
- adding landscape area requirements for each dwelling unit and require the landscaped area for detached SDU’s to be screened;
- requiring a minimum setback for a detached SDU from any swale; and,
- using existing maximum lot coverage regulations, where they exist.

For the six former municipal Zoning By-laws, the proposed regulations either replace existing residential conversion regulations or create a new set of regulations to permit Secondary Dwelling Units throughout the urban area. The effect of the proposed regulations is to harmonize and provide consistency across the entire City of Hamilton.

Secondary Dwelling Unit regulations are proposed for Zoning By-law No. 05-200 because single detached, semi-detached and townhouse dwelling units are permitted in some zones (i.e. Downtown, Institutional, Commercial and Mixed Use, Transit Oriented

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Corridor and Rural Zones). When the residential zones are added to Zoning By-law No. 05-200, these proposed regulations will apply.

In accordance with the Official Plan, it should be noted that SDUs will not be permitted in any deferred development (“DD”) or neighbourhood development (“ND”) zone in any By-law as the intended use/development of lands in a “DD” or “ND” zone is subject to future amendments to Zoning By-law No. 05-200 and the Official Plan designation is often for commercial, industrial or higher density residential uses.

The proposed zoning regulations are structured into Secondary Dwelling Unit general provisions (e.g. definitions and parking standards) and regulations specific to the three SDU typologies:

- Internal to the Principal Dwelling;
- Newly constructed Secondary Dwelling Unit; and,
- Conversion of an existing accessory building to a Secondary Dwelling Unit.

The proposed zoning by-law regulations include technical changes to add new provisions and/or amend existing provisions (e.g. adequate servicing provision in the rural area) and to remove any inconsistencies or conflicts with existing zoning by-law provisions.

The proposed Zoning By-laws for the six former municipalities and Hamilton Zoning By-law No. 05-200, are attached as Appendices “A” to “G” to Report PED20093(a). A summary of the specific regulations is detailed in Appendix “M-1” to Report PED20093(a).

The zoning regulations work together and are inter-related. The proposed zoning regulations implement the following land use planning and corporate / community goals and objectives:

- Responding to Climate Change impacts and managing storm water;
- Respecting neighbourhood character;
- Minimizing privacy and other impacts on neighbours;
- Recognizing constraints of existing lot and building configurations; and,
- Protecting the health and safety of residents and the community.

Appendix “I” to Report PED20093(a) illustrates how these regulations, by SDU typology, contribute to achieving the goals/objectives above.

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It should be noted that the Zoning By-law regulations recommended in this report would establish the as-of-right zoning permissions. These as-of-right permissions have been prepared to meet the majority of lot types and circumstances. However, it is important to note that the as-of-right permissions cannot anticipate all the differences and unique circumstances that may exist (e.g. lot patterns and configuration, location of existing buildings on a lot, etc.). Therefore, variations to these standards may be appropriate in some circumstances. These would be considered and addressed through the Minor Variance process. This report is recommending that such variances be considered as Routine Variances, which pay a lesser fee than a Full Variance application.

Over the next 18 months, these regulations will be monitored. In the event there are regulations that require consistent modifications by way of minor variance applications, staff will report back to Planning Committee with a recommended course of action which may include further amendments to the Zoning By-law.

2.1 Secondary Dwelling Unit Zoning By-law Regulations – Urban Area

Based on the public engagement results, overall, there is generally support for all forms of SDUs in the urban area. Further, the preference, by many respondents, is that as few regulations as possible should be included in the Zoning By-laws even if such regulations are intended to ensure community and neighbourhood integration, support streetscape character and provide for privacy and safety of residents. With that in mind, staff have identified the recommended regulations below, which provide a balance between the need for additional housing opportunities and meeting the objectives stated in Section 2.0 above.

2.2 Regulations for Secondary Dwelling Units Interior to a Principal Dwelling

Any SDU located inside the main dwelling, or as part of an addition to the building, must conform to the parent zone regulations. As a result, there are no new setback or height requirements necessary for this form of SDU. Therefore, the following are the recommended regulations for this form of SDU:

- **Main Entrance to SDU** – In most areas of the city, the main entrance will be required to be through a common lobby, atrium or from the interior side or rear of the principal dwelling. The intent is to maintain the overall appearance from the street where each dwelling unit typically has one entrance that face the street.

However, it is recognized that in certain areas, there is a more diverse range of dwelling types on the same block, such as single detached, semi-detached, duplex, triplex and street townhouse dwellings. As a result, it is possible to have

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two front doors facing the street. A proposed regulation to allow the main entrance to the SDU to face the street has been included in Zoning By-law No. 6593 and 05-200 for the lands identified in Appendix “M-2” to Report PED20093(a)).

- Exterior Stairs above a first floor – Exterior stairways excluding a fire escape above the first floor will not be allowed.
- Maximum or Minimum Size of a SDU - The recommended approach is to not require minimum or maximum sizes of the SDU, either as a percentage of total gross floor area or a hard square footage cap, as part of the Zoning By-law, but rather to rely upon the Ontario Building Code. The Ontario Building Code establishes minimum standards for room sizes, and the OMB/LPAT has typically deferred to these standards when approving minor variance applications for relief from the minimum dwelling and/or unit size provisions currently in Zoning By-law No. 6593.

As part of the Provincial Housing Action Plan, the Province released a guide on accessory units which outlines minimum room sizes, based on the Ontario Building Code. A table summarizing these minimum room sizes is provided below. Note that, in addition to a bathroom and a master bedroom, a dwelling unit must have all of the following rooms: living area, dining area and kitchen (except where a sleeping area is combined with living/dining/kitchen, i.e. ‘bachelor apartment’).

| Room/Space | Minimum Required Floor Area |
|---|--|
| Living Area | 13.5 m ² (145 ft ²) |
| Dining Area | 7 m ² (75 ft ²) |
| Kitchen | 4.2 m ² (45.2 ft ²) |
| Combined living, dining and kitchen areas in a one-bedroom unit | 11 m ² (118.4 ft ²) |
| Master bedroom (without built-in closet) | 9.8 m ² (95 ft ²) |
| Other bedrooms (without built-in closets) | 7 m ² (75 ft ²) |
| Bathroom | Sufficient space for sink, toilet and shower stall or bath |
| Combined sleeping, living and dining areas and kitchen space | 13.5 m ² (145 ft ²) |

(Relevant Building Code provisions - Division B, Subsections 9.5.4. to 9.5.9.)

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There was strong support through the public consultation for not including a minimum or maximum size of an internal SDU within the Zoning By-law itself, and therefore none is being recommended. Relying on the minimum standards of the Ontario Building Code allows the property owner the flexibility to determine the size of the SDU based on the extent of the existing dwelling or addition to the principal dwelling. The SDU can be established based on existing or planned floor plans (such as taking up the entire basement as opposed to a portion) and to the needs of the SDU resident.

2.3 Newly Constructed Detached Secondary Dwelling Units

Regulations for newly constructed detached SDUs are summarized below. These regulations are intended to achieve sensitive community integration and to address matters such as privacy, overlook, stormwater management, grading and drainage, landscaping, and the preservation of private backyard space.

- **Minimum Setbacks** - a minimum 1.2 m interior side yard and rear yard setback will be required and must be free and clear of obstructions and storage to address stormwater management and grading and drainage, and to allow the property owner to make repairs and maintenance to the detached SDU without needing to enter the abutting property. Further, gutters and eaves can be installed without encroaching into the abutting lot. This setback is consistent with existing Zoning By-law requirements for other types of accessory buildings.

The minimum flankage yard (corner lot) setback would be based on the regulations of the applicable residential zone. The purpose is to maintain a street edge on a corner lot based on the requirements of the zone the building is in.

- **Lot Coverage** - Most of the former municipal Zoning By-laws have maximum lot coverage regulations for residential zones. To avoid overbuilding and to allow for landscaping and parking, the recommended approach is to retain the existing lot coverage regulations in these by-laws on an interim basis. For the area of the City covered by Zoning By-law 05-200, a maximum 25% lot coverage for accessory buildings is recommended as an interim measure. These interim lot coverages will be further reviewed as part of the ongoing work relating to the comprehensive update to the City's residential Zoning By-law standards.
- **Distance between the back of the principle dwelling and the SDU** – The Discussion Paper proposed a 7.5 m setback between the principle dwelling and the SDU. While some of the public comments suggested that this setback may be too large, the proposed regulation has been retained to ensure separation between the

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principle dwelling and the attached SDU as well as to retain the existing amenity area/open space area of the principle dwelling. The separation also meets climate change goal where the required open space provides opportunities for landscaping of the rear yard and ensuring adequate drainage is provided.

- Maximum Gross Floor Area (GFA) for the Detached SDU – Establishing a maximum gross floor area (GFA) for a detached SDU has several implications. An appropriate maximum GFA can help ensure the detached SDU does not result in overbuilding on the lot. Further, establishing a maximum size helps address climate change by minimizing the loss of landscaped area in side and rear yards, and ensuring that grading and drainage concerns are minimized. However, a maximum GFA needs to be large enough such that SDUs can accommodate various household types and needs.

Much of the public feedback on the Discussion Paper suggested that the proposed 50.0 sq. m. maximum GFA was too low, and that a larger maximum size would be appropriate. As a result of this feedback, the amended proposed regulation (not including mechanical rooms and staircases) is 75.0 sq m.

An additional regulation has been added that restricts the maximum size of the detached SDU to not exceed the total floor area of the principal dwelling to avoid having a detached SDU that is bigger than the principal dwelling.

- Height – The Discussion Paper proposed a maximum height of 6.0 m, which is equivalent to two floors with a flat roof, or one floor with a sloped roof. Some of the public feedback suggested a higher height limit, such as setting the maximum height for the SDU at the height of the principal dwelling. Despite these comments, the recommended approach is to maintain the maximum height limit at 6.0 m. This height would ensure the SDU does not impact abutting lots with respect to shadowing, overlook, and privacy. A 6.0 m height limit is also consistent with the height limit that was established through the Laneway Housing Pilot Project (Bylaw- No. 18-299).
- Safety regulations - The Ontario Building Code and the Ontario Fire Code contain regulations that ensure emergency personnel can reach the scene of an emergency by providing a clear and unobstructed path on the lot, and a maximum distance from the street for fire hoses to reach the entrance of a dwelling unit. The regulations proposed in the Discussion Paper to satisfy these considerations were:
 - A maximum linear distance from the lot lines abutting the street to the entrance of the detached SDU of 40 m; and,

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- A minimum 1.0 m wide unobstructed path with a minimum height clearance of 2.6 m from the street to the entrance of the detached SDU.

Some of the public feedback suggested a reduction in the minimum 1.0 m wide unobstructed path to 0.9 m as has been done in Toronto; however staff is not recommending any change to this standard, and that the 1.0 m be retained. With respect to the minimum height clearance, while the Discussion paper proposed a 2.6 m height, the OBC requires only 2.1 m. Therefore, staff is recommending that this standard be set at the OBC requirement of 2.1 m.

- Design regulations - Design regulations within the Zoning By-law would apply above the first floor and are intended to ensure windows, balconies, and rooftop patios do not impact abutting properties from impacts due to noise, overlook, and privacy. The Discussion Paper proposed that windows be permitted with a 1.5 m setback and balconies, porches and roof top patios be prohibited above the first storey.

Based on the public feedback received as well as a review of the OBC requirements, a modification is being proposed to align with the OBC which would permit windows on any building façade on the SDU as long as the building is setback a minimum of 1.2 metres from the lot line. The prohibition on balconies, porches and roof top patios has not been changed.

In addition, a new regulation has been added to require a minimum landscaped area of between 8-12 m² for each dwelling unit (the amount of landscaped area increases as the units get larger) This landscaped area allows for open space amenity area for the detached unit. In addition, to provide a demarcation of the amenity space for the detached SDUs, there is a requirement for the landscaped area associated with the detached SDU to have a visual barrier of between 0.3 m and 1.0 m in height on two sides of the amenity area. This barrier could be in the form of shrubs or plantings and not just a fence wall.

- Stormwater Management Grading and Drainage Considerations – In addition to the landscaped area requirement noted above, a setback of 1.0 m from a swale is required to ensure the flow of stormwater. In most cases, the swale is on the lot line; however, should the swale be located off set from the lot line, then this regulation will protect it. As detached SDUs might have a foundation or even a basement or cellar, the intent is to minimize disturbance to the swale by not building too closely.

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2.4 Conversion of an Existing Accessory Building to Detached Secondary Dwelling Units

An existing, legally established accessory building in the Urban Area may be converted to a detached SDU. The following regulations would apply to such a conversion:

- A “Vacuum Clause” regulation has been introduced to address any non-complying matters associated with the conversion of a legally established accessory building into a detached SDU. The proposed regulation deems the converted detached SDU to comply with the regulations for setback requirements, height, gross floor area, lot coverage, and distances from the principal dwelling. However, the conversion must still meet Ontario Building Code requirements and is subject to a Building Permit application.

The Vacuum Clause regulation will not apply to additions greater than 10% of the size of the accessory building being converted, and any additions must be built in accordance with the proposed regulations for a newly constructed detached SDU.

- Any required parking space that is lost due to the conversion of the accessory building (e.g. if it is a garage that contains a required parking space) then the required parking space must be replaced on site. In some cases, it might be accommodated on the existing driveway, or through a widening of the existing driveway as long as the 50% landscape requirement is met.
- A regulation has been added requiring converted detached SDUs also meet safety regulations with respect to setbacks and fire equipment access to the SDU, notwithstanding the Vacuum Clause. It is a requirement for converted detached SDUs meet the Ontario Building Code and Fire Code regulations with respect to creating a free and clear 1.0 metre path from the street to the entrance of the detached SDU, and a maximum 40 metres for the fire hose to be able to reach the front entrance to the detached SDU.

2.5 Parking Standards for all Types of Secondary Dwelling Units

In September 2019, the Province issued Ontario Regulation 229/19 which regulates how municipalities can set and apply zoning by-law standards for secondary dwelling units. With respect to parking, O/Reg 229/19 sets out the following:

- Establishes a base standard of not more than one required parking space for each SDU, which may be provided through tandem parking as defined.

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- If a municipal zoning by-law requires no parking spaces for the primary residential unit, then no parking space can be required for the SDU; and,
- If a municipal zoning by-law is passed that sets a parking standard lower than a standard of one parking space for each SDU, then to avoid any potential conflict between the Regulation and the zoning by-law, the municipal zoning by-law parking standard would prevail.

The following parking standards for SDUs are proposed in this report:

- A city-wide minimum parking standard of 1.0 spaces per SDU is proposed and would apply to both the Urban and Rural Areas. However, it is recognized that in certain parts of the City, many existing lots cannot accommodate parking on-site due to the location of the dwelling or the lot configuration. In recognition of this circumstance, a proposed regulation has been introduced that applies to certain lands in the lower City of Hamilton, roughly bounded by Highway 403 in the west, south of the industrial area to the north, the Niagara Escarpment to the south, and Ottawa Street to the east. (See Appendix “M-2” to Report PED20093(a)).

Within this broad area, no additional parking for the SDUs will be required for lawfully established single detached, semi-detached, street townhouse, or block townhouse dwellings. This regulation is proposed in Hamilton Zoning By-law Nos. 6593 and 05-200 (see Appendices “A1” and “F” to Report PED20093(a)). This regulation is consistent with the regulation in the Temporary Use By-law (By-law 19-307) that amended Section 19 of Hamilton Zoning By-law No. 6593, where parking was no longer required in certain parts of Wards 1 (east of Highway 403) and 2.

- Adding additional parking spaces has the potential to reduce landscaped areas in the front yard. Currently, a regulation exists in both Zoning By-law No. 6593 and 05-200 that requires a minimum 50% of the front yard to be landscaped, consisting of sod, trees and shrubs, decorations and walkway, but that does not include a driveway or manoeuvring or access lanes. The intent of this regulation is to preserve permeable area and maintain the appearance from the street. No change is proposed to this existing regulation, and therefore any added parking would have to continue to maintain 50% landscaped area in the front yard.
- Tandem Parking is two vehicles parked one in front of the other. Although tandem parking is effective when all vehicles belong to one household, there can be operational constraints when vehicles are owned by different households. The concern is where the inner car must wait for the outer to drive out of the driveway

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first before it can exit. It is proposed that for SDUs, tandem parking would not be permitted for any required parking spaces, but would be permitted for any non-required parking spaces.

- The proposed SDU regulations prohibit additional driveways to be established for an SDU, except in the case of a corner lot where one driveway would be permitted per street frontage. The intent of this regulation is to prevent lots from having multiple driveways on the same street frontage and alter the general appearance from the street and reduce curb cuts thereby reducing on street parking. This regulation is consistent with Zoning By-law No. 05-200.

2.6 Other Technical Regulations to Secondary Dwelling Units

In addition to the above-mentioned regulations, the Discussion Paper proposed technical regulations and definitions that would give support to the SDU regulations. The public consultation did not identify any concerns with these technical regulations, and therefore there are no changes being proposed. These regulations include:

- A regulation within Hamilton Zoning By-law No. 05-200 to allow a SDU within a legally established single detached, semi-detached dwelling street or block townhouse located within the General Industrial (M5) and the Light Industrial (M6) zones in the Bayfront area (existing special exception 375).
- A regulation to ensure the establishment of an SDU(s) in one (unsevered) lot is not considered as a triplex, multiple dwelling, or other form of medium density dwelling type.
- A regulation prohibiting the location of a detached SDU from the front and flankage (exterior side) yard, which is a consistent regulation to accessory buildings in all Zoning By-laws.

2.7 Secondary Dwelling Unit and Related Zoning By-Law Regulations – Rural Area

Planning Committee and City Council, at their meetings of September 22, 2020 and September 30, 2020, directed that regulations related to SDUs within the principal dwelling in the Rural Area be included as part of this phase of the SDU project. The second phase of this project will determine the potential to allow detached SDUs in the Rural Area along with any regulations required to allow this use. This second phase is expected to be completed by the end of 2021.

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The proposed Zoning By-law regulations for SDU's in the Rural Area will allow one SDU to be contained within the principal dwelling. There was broad support during the public consultation to permit SDUs in the Rural Area. Further, there was a strong interest in constructing these units. The regulations to support this use include:

- Requiring a minimum lot area of 0.6 ha for a single-detached or semi-detached dwelling lot to ensure an adequate lot size for the accommodation of a well and septic tank;
- Adding a new requirement to ensure adequate servicing on the site; and,
- Requiring the entrance to the SDU to be located be on the side or at the rear of the building.

Appendix "M-1" to Report PED20093(a) contains the detailed regulations.

2.8 Technical Changes to Farm Labour Residence Definition and Regulations

As a result of adding the definition of SDU to Zoning By-law 05-200, overlaps in the Farm Labour Residence definition and regulations have occurred. In addition, there are inconsistencies within the Zoning By-law structure; more specifically, the definition of Farm Labour Residence which inappropriately contains regulations.

Currently, the existing Zoning By-law 05-200 regulations allow one Farm Labour Residence per lot based on one of three forms:

- An accessory apartment attached to and forming part of the principal farm dwelling (attached SDU); or,
- A bunkhouse with shared eating and bathroom facilities; or,
- A detached dwelling of temporary construction, such as a mobile home.

The changes to eliminate the overlap and restructure the Farm Labour Residence regulations and definition include:

- Deleting accessory apartment as a form of Farm Labour residence, since attached SDU's have their own set of regulations and there is no restriction as to who can live in this SDU;
- Relocating the regulations related to the form of the Farm Labour residence to the Agriculture (A1) and Rural (A2) zone regulation sections;

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- Removing redundant wording in the regulations; and,
- Amending the definition to delete the reference to the form of the Farm Labour residence.

2.9 Adequate Services (Water and Sewage Disposal)

A new clause is proposed to be added to Zoning By-law 05-200 to address the need to ensure adequate services are provided and maintained for rural uses. This new regulation is similar to an existing regulation which has the same requirement for urban uses,

“iii) For lands in a Rural zone,

1. An approved waste disposal and water supply systems to sustain the use of land for buildings shall be provided and maintained to the satisfaction of the Chief Building Official; and,
2. All regulatory approvals have been received to the satisfaction of the General Manager of the Planning and Economic Development Department and/or his or her designate.”

3.0 Other Related Matters

3.1 Site Plan Control for Secondary Dwelling Units

Currently, Site Plan Control for single detached and semi-detached residential dwelling units applies in only limited locations in the City, such as the Beach Strip, by Zone such as the ER Zone in Ancaster, and if the lot is located within an Environmental Significant Area. Many of these areas are under Site Plan Control to address specific unique matters such as grading and drainage and stormwater management.

With the exception of the Beach Strip and parts of Ancaster, which are under Site Plan Control already for single detached and semi-detached dwellings, staff are recommending that Site Plan Control not be applied to SDUs, as regulations have been put in place through the recommended Zoning to address concerns such as a free and clear minimum 1.0 metre setback from the property line to ensure proper drainage to the side of the SDU, maximum lot coverage requirements, and minimum distance between the principal dwelling and the SDU in the interior side and rear yards.

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At the time of the Building Permit application submission, based on the size and location of the detached Secondary Dwelling Unit, the applicant will be required to submit a detailed grading and drainage plan, prepared, stamped and signed by an Ontario Land Surveyor, Architect, Landscape Architect or a Professional Engineer competent in this field, to confirm that no grading issues are being caused on the property including but not limited to the grades along the property lines. Please note this grading plan will also be used to determine if a site alteration permit is required in accordance with the Site Alteration By-law.

3.2 Amendments to the Parkland Dedication By-law

Staff is recommending that Section 5(5) of the Parkland Dedication By-law 18-126 be amended to extend the reduced parkland dedication rate from one secondary dwelling unit in a single detached dwelling to include up to two secondary dwelling units in a single detached, semi-detached, or townhouse dwelling and on a lot containing such dwellings.

The reduced rate for the addition of one secondary dwelling unit in an existing single detached dwelling was first introduced in 2015 to encourage small scale intensification. At its meeting of September 9, 2015, Council passed a Motion that introduced a temporary flat fee of \$500 where a second dwelling unit was added in an existing single detached dwelling. At its meeting of March 8, 2017, Council approved Amending By-law 17-039 which included an amendment to continue the application of this reduced rate as part of Phase I of a Parkland Dedication By-law Review. Amending By-law 17-039 specified a flat fee of \$750 to the addition of one dwelling unit in an existing single detached dwelling, subject to annual indexing.

As part of Phase 2 of the Parkland Dedication By-law Review, the flat fee was updated to align with the indexed rate in effect at the time. At its meeting of May 23, 2018, Council approved Parkland Dedication By-law 18-126 which is still in effect. By-law 18-126 specifies that the fixed rate for the addition of one dwelling unit is \$869, subject to annual indexing. The current (indexed) rate in effect on April 1, 2021 is \$1,131 per unit. The current (indexed) rate as of April 1, 2021 is \$1,131 per unit.

3.3 Committee of Adjustment Fee

A new fee is proposed to be added to the Tariff of Fee By-law No. 12-282, as amended by By-law No. 19-108, to introduce a fee of \$600 for Committee of Adjustment applications respecting secondary dwelling units, attached as Appendix "H2" to Report PED20093(a). This fee is the same as the fee for accessory structures. This reduced fee is being proposed in order to minimize financial barriers to the creation of SDUs in

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situations where minor modifications to the regulations set out in this report are deemed to be appropriate.

As work on the residential Zoning By-law reform progresses, staff will monitor Committee of Adjustment application to determine if any of the proposed regulations are repeatedly being identified as a barrier to the creation of SDUs. While not every property can accommodate both an SDU and a detached SDU, staff will access and recommend any adjustments to the regulations, if required.

3.4 Other Housing Related Planning and Development Department Reports

The following housing topics will be the subject of separate reports to Planning Committee and Council:

- Property Standards By-law;
- Rental Housing Licencing Pilot Program for Wards 1, 8, 14;
- Condo Conversion UHOP policies and associated Municipal Act By-law;
- Family Friendly Housing Guidelines; and,
- Short term rentals.

3.5 Other Financial Incentives

A separate report to address Development Charges and SDUs will be presented to the Audit and Finance Committee.

Further, an update to the Housing and Homelessness Action Plan by the Healthy and Safe Communities Department may provide additional direction on other financial incentives or approaches to encourage SDUs to be built.

4.0 Matters outside the Scope of the Zoning By-law

4.1 Building without Permits

Although residential conversions have been permitted through Hamilton Zoning By-law No. 6593 since the early 1990s, there continues to be dwelling units that have been constructed without Building Permits or where the use is not permitted. Although illegal units are a form of affordable housing, residing in a dwelling unit can result in health and safety concerns. Introducing new regulations into the Zoning by-laws is one proactive step in increasing housing opportunities, but it does not obviate the need for a building permit.

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4.2 Property Standards and Parking Matters

Through public engagement, several comments were received respecting concerns that Secondary Dwelling Units could result in property standards issues, if tenants or landlords do not take care of their properties. Property standards issues such as uncut grass and weeds, waste bins not collected after garbage pickup, sidewalks not being shovelled, or garbage and debris are some of the concerns that were expressed. Illegal parking was another concern that was commonly expressed.

Property standards and parking matters are subject to municipal law enforcement through various municipal By-laws, such as the Property Standards By-law (By-law No. 10-221), the Snow off Sidewalk By-law (By-law No. 03-296), and the Yard Maintenance By-law (By-law No. 10-118). Parking enforcement is regulated through the On-Street Parking By-law (By-law No. 01-218). These by-laws and regulations will continue to be in force and effect with respect to SDUs, as they are in all parts of the City. Staff will continue to monitor and report to Council on enforcement activities related to these by-laws, and should any matters arise as a result of SDUs that warrant amendments to these by-laws, staff will bring forward future reports recommending such changes.

4.3 Occupancy Requirement for an SDU

Historically, it has been assumed that SDUs will be created in owner occupied dwellings and as such municipalities should require owner occupancy as a precondition to permitting SDUs.

Zoning regulates the use of the land and not the user of the land. Through Ontario Regulation 229/19, the Province has provided clarification that municipal zoning by-laws cannot require owner occupancy requirements for SDUs. Specifically, the regulation states that where a SDU is permitted in a zoning by-law, the SDU may be occupied by any person regardless of whether the primary residential unit is occupied by the owner of the property.

In addition, Regulation 299/19 also includes provisions that a zoning by-law must permit a SDU without regard to the date of construction of the primary or ancillary building.

5.0 Accessory Dwelling Units Regulations

This section of the Zoning By-law originated in 2005 and has been amended several times as each new zone category was added to the by-law. This Section has regulations in that are part of the SDU regulations, specifically restricting to a detached SDU in a front yard, driveway setbacks and eave encroachment. As a result, this

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Section is being deleted and replaced with a more comprehensive set of regulations, attached as Appendix “A1” to Report PED20093(a), that are up to date and easier to read.

6.0 Zoning By-law Interpretations

Most contemporary Zoning By-laws include diagrams and tables that make it easier for the public to read them and for staff to implement them. New regulations are being proposed to identify how diagrams and tables are to be used in Hamilton’s Zoning By-laws, either as information tools, or to illustrate regulations.

ALTERNATIVES FOR CONSIDERATION

SDU Zoning By-law Regulations

While the principal of allowing the use of SDUs is established in both the Planning Act as well as in the City’s Official Plan and Zoning By-laws, Council could decide to modify one or more of the individual regulations recommended in this report as they relate to that use.

Parkland Dedication and Committee of Adjustment Applications

Council could choose to apply the full rate for parkland dedication and/or Committee of Adjustment applications as they relate to applications for SDUs.

Site Plan Control

Council could choose to require Site Plan Control applications for detached SDU’s. This approach would add significant cost to the establishment of an SDU, as well as require additional resources for the review and processing of applications.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

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APPENDICES AND SCHEDULES ATTACHED

- Appendix "A-1": Draft Zoning By-law for Hamilton Zoning By-law No. 05-200 – Accessory Buildings
- Appendix "A-2": Draft Zoning By-law for Hamilton Zoning By-law No. 05-200 – Secondary Dwelling Units
- Appendix "B": Draft Zoning By-law for the former Ancaster Zoning By-law 87-57
- Appendix "C": Draft Zoning By-law for the former Dundas Zoning By-law 3581-86
- Appendix "D": Draft Zoning By-law for the former Flamborough Zoning By-law 90-145-Z
- Appendix "E": Draft Zoning By-law for the former Glanbrook Zoning By-law 464
- Appendix "F": Draft Zoning By-law for the former Hamilton Zoning By-law 6593
- Appendix "G": Draft Zoning By-law for the former Stoney Creek Zoning By-law 3692-92
- Appendix "H-1": Draft Parkland Dedication By-law
- Appendix "H-2": Draft Tariff of Fee By-law – Committee of Adjustment fee
- Appendix "I": Rationale of SDU Regulations
- Appendix "J": Public Engagement Techniques in Engage Hamilton Portal
- Appendix "K-1": Public Engagement Feedback Summary – General Comments
- Appendix "K-2": Public Engagement Feedback Summary – Urban Internal SDU Comments
- Appendix "K-3": Public Engagement Feedback Summary – Urban Detached SDU Comments
- Appendix "K-4": Public Engagement Feedback Summary –Rural Comments
- Appendix "K-5": Public Engagement Feedback Summary – Parking Regulations for SDU Comments
- Appendix "K-6": General Town Hall Meeting Comments
- Appendix "L-1": Urban Area Survey Summary
- Appendix "L-2": Rural Area Survey Summary
- Appendix "M-1": Summary of Regulations by SDU typology
- Appendix "M-2": Area of reduced Parking and Second Entrance facing the Street would be allowed (applies to Zoning By-law 05-200 and 6593 only)
- Appendix "N": Public Notice of the Planning Committee

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