



## Public Meeting Report

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<b>Report To:</b>	<b>Joint Committees</b>	
<b>Date of Meeting:</b>	September 13, 2021	<b>Report Number:</b> PDS-041-21
<b>Submitted By:</b>	Ryan Windle, Director of Planning and Development Services	
<b>File Number:</b>	COPA2021-0003 & ZBA2021-0011	<b>Resolution#:</b>
<b>Report Subject:</b>	<b>Additional Dwelling Units - Official Plan and Zoning Bylaw Amendments</b>	

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### Purpose of Report:

The purpose of this report is to provide information to the public and Council. It does not constitute, imply or request any degree of approval.

### Recommendations:

1. That Report PDS-041-21 and any related communication items, be received;
2. That staff consider comments from the public and Council with respect to the Municipally-initiated Official Plan and Zoning Bylaw Amendments to increase permissions for Additional Dwelling Units prior to bringing back a recommendation report; and
3. That all interested parties listed in Report PDS-041-21 and any delegations be advised of Council's decision.

## Report Overview

The proposed Amendments are being advanced as part of Clarington's Affordable Housing Toolkit to respond to a community need for more affordable housing options. Expanding permissions for Additional Dwelling Units (ADUs) is just one 'tool' within the Affordable Housing Toolkit that includes affordable housing requirements as we design new residential areas through secondary plans.

The proposed policies of the Official Plan and standards of the Zoning Bylaws will help facilitate the process for property owners who wish to add an ADU within their house or accessory building.

The proposed level of policies and standards have been designed to accomplish a balance between the protection of the health and safety of residents and community character with the need for a straight-forward process. The intention is to facilitate the development of ADUs and increase the supply of affordable housing as soon as possible.

**Attachment 1** to this report is a table comparing the current Official Plan policies and Zoning Bylaw regulations to what is proposed, and includes a brief explanatory comment for each proposed amendment. **Attachment 2** is the proposed Official Plan Amendment, and **Attachment 3** is the proposed Zoning Bylaw Amendment.

## 1. Background

- 1.1 The *Planning Act* has been amended to require municipalities to update their Official Plans and Zoning Bylaws to allow one ADU within a detached, semi-detached, and townhouse **and** one ADU within an accessory building on the same lot. This means that a property could have three dwelling units: the principal dwelling unit, an ADU within the principal building, and an ADU within a detached accessory building.
- 1.2 Shortly after these new permissions were granted, they were quickly incorporated into [Clarington's Affordable Housing Toolkit](#) as outlined in [Report CAO-013-19](#). One of the recommendations of that report was for Staff to prepare draft Official Plan and Zoning Bylaw Amendments to implement these changes to the *Planning Act*. In approving this recommendation on November 25, 2019 in Resolution [#GG-549-19](#), Council authorized Staff to commence this project.
- 1.3 Implementing expanded permissions for ADUs is just one way that the Municipality is addressing this important issue. Clarington's Task Force on Affordable Housing, a predominantly citizen-based group that also includes Council members, provide advice, comments, and recommendations to Council regarding affordable and senior's housing in the community.

- 1.4 Inclusionary Zoning will also assist in the provision of affordable housing units. This land use planning tool enables municipalities to require that a proportion of affordable units within proposed residential developments located in Major Transit Station Areas (MTSAs) be provided. Both the Courtice and Bowmanville MTSAs will benefit from these provisions.
- 1.5 The recently approved Southeast Courtice, Southwest Courtice, and Brookhill Neighbourhood Secondary Plans have included policies that require either the dedication of land or payment in lieu of dedication for the development of affordable, public or not-for-profit housing in the community.

### Current Official Plan Policies

- 1.6 Currently, the Municipality's [Official Plan](#) (OP) permits only one "accessory apartment" within principal residential buildings in Urban Areas. In Rural Areas, only one accessory apartment is permitted, but may be in either a principal residential building **or** within a detached accessory structure. These current Official Plan policies are not reflected in the Municipality's two Zoning Bylaws, which pre-date the current Official Plan.

### Current Zoning Regulations

- 1.7 [Zoning Bylaw 84-63](#) provides regulations for lands outside of the Oak Ridges Moraine (ORM). Section 3.2 was added in 1997 to permit one "apartment-in-house" within the R1, R2, and R3 zones, inclusive of all exception zones, but not within Orono where they are not permitted. [Zoning Bylaw 2005-109](#) provides regulations for lands within the ORM. Section 5.7 permits one "in-house apartment" within a single detached dwelling in Urban Residential Zones. In both Bylaws, one parking space is required for each apartment.

### Purpose of Report

- 1.8 The purpose of this report is to provide the context and explain the proposed Official Plan and Zoning Bylaw Amendments, as found the **Attachments** to this report. These proposed Amendments are not being recommended for approval at this time. They are intended to be an early draft version to elicit comments from the public, commenting agencies, and Council. After Staff have received and given consideration to these comments, revised draft Official Plan and Zoning Bylaw Amendments will be brought to Council for approval.

## 2. Legislative and Policy Context

### Bill 108 and Planning Act

- 2.1 On September 3, 2019, [Bill 108, More Homes, More Choice Act, 2019](#) came into effect. In part, it amended the [Planning Act](#) to require municipalities to update their Official Plans and Zoning By-laws to increase permissions for ADUs.

2.2 Section 16(3) of the *Planning Act* now states:

“An official plan shall contain policies that authorize the use of additional residential units by authorizing,

- (a) the use of two residential units in a detached house, semi-detached house or rowhouse; and
- (b) the use of a residential unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse.”

2.3 To ensure the above policies are implemented in zoning bylaws, Section 35.1(1) of the *Planning Act* now states:

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

2.4 As with previous legislation requiring Municipalities to permit ADUs, sections 17 (24.1), 17 (36.1), and 34 (19.1) of the *Planning Act* provides that the adoption of ADU policies in an Official Plan or amendments to Zoning Bylaws to give effect to the Official Plan policies are not appealable.

### **Ontario Regulations (“O. Regs.”)**

2.5 Along with the above amendments to the *Planning Act*, [O. Reg. 299/19](#) (which provides regulations for the new ADU policies) states that ADUs are permitted in existing and future residential buildings, and that only one parking space per ADU shall be required unless a municipality has passed a by-law not requiring a parking space.

2.6 In 1994, [O. Reg. 384/94](#) (which provides regulations for second residential units) came into effect and its regulations must be adhered to, unless more recent regulations are in effect that concern a specific issue within O. Reg. 384/94.

### **Provincial Policy Statement**

2.7 The [Provincial Policy Statement](#) (PPS) states that efficient land use patterns support sustainability, and that accommodating appropriate forms of affordable housing is a top priority. Municipalities are to permit and facilitate a broad range of housing options, including ADUs. Intensification assists with cost-effective development patterns and minimizes servicing costs. While residential development is largely directed to settlement areas, the PPS encourages the redevelopment of existing housing stock on rural lands and the efficient use of existing infrastructure.

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## A Place to Grow: Growth Plan for the Greater Golden Horseshoe

- 2.8 Like the PPS, the policies of the [Place to Grow](#) plan provide for a range and mix of housing options, including ADUs and affordable housing to serve all sizes, incomes, and ages of households. While the Place to Grow plan's primary goal is to direct residential development to settlement areas, it recognizes the benefit of limited rural development so long as it is compatible with the rural landscape, is supported by existing services, and will not adversely affect agricultural and aggregate operations.

### Greenbelt Plan

- 2.9 On July 1, 2017, the [Greenbelt Plan](#) was updated to specify that, outside of Villages and Hamlets, ADUs are permitted in single detached dwellings **or** existing accessory buildings on the same lot so long as they are not within the Natural Heritage System (NHS). Since the revised Greenbelt Plan came into effect on July 1, 2017, ADUs are permitted only in accessory buildings that existed on that date.
- 2.10 Within Villages or Hamlets, ADUs are not permitted in the NHS, but may otherwise have the potential for one ADU in the house, and one ADU in a new or existing accessory structure. These permissions apply to the following Hamlets Mitchell Corners, Solina, Hampton, Maple Grove, Tyrone, Leskard, Kendal, Brownsville, and Newtonville. These permissions also apply to the portions of Enniskillen, Haydon, and Kirby that are within the Greenbelt Plan Area, but the portions of these Hamlets within the ORM are subject to more restrictive policies specific to the ORM.

### Oak Ridges Moraine Conservation Plan

- 2.11 The Oak Ridges Moraine Conservation Plan (ORMCP) is set out in [O. Reg. 140/02](#). Like the Greenbelt Plan, the ORMCP was also updated in 2017. This update included a revised definition of "single dwelling" which contained policy direction on where ADUs could be permitted within the ORM. Clarington Staff discussed this matter with Staff from the Ministry of Municipal Affairs and Housing. It is now clear that, for lands within the ORM, only one ADU is permitted on a lot, and it must be within a single detached dwelling and only within the Countryside Area (which includes Rural Settlement Areas). This means that ADUs cannot be permitted in Natural Core or Natural Linkage areas, and cannot be permitted in accessory buildings anywhere within the ORM.

## Durham Official Plan

- 2.12 The [Durham Regional Official Plan](#) (DROP) contains policies to encourage the maintenance and improvement of existing housing stock and that 25% of new residential units in each area municipality shall be affordable. The DROP encourages intensification within Urban Areas, including converting single detached dwellings into multiple residential units. The DROP does not speak directly to ADUs within the Rural System, however the Region is currently in process of a Municipal Comprehensive Review (Envision Durham) which will revise the DROP's policies to be in conformity with Provincial directions, including expanded permissions for ADUs.

## 2019-2022 Strategic Plan and Affordable Housing Toolkit

- 2.13 The 2019-2022 Strategic Plan identified Council's desire to develop an Affordable Housing Policy. In collaboration with the CAO's office, the Municipality has developed an Affordable Housing Toolkit. This Toolkit provides three categories of tools that can be used to help increase the number of affordable housing units in Clarington: Regulatory and Process Tools; Land Based Incentives; and Financial Incentives. ADUs, along with Inclusionary Zoning, reduced parking requirements and an expedited approvals process are some of the Tools that the Planning and Development Services Department can assist with.

## 3. Proposed Official Plan Amendment

- 3.1 While the *Planning Act* directs municipalities to implement Official Plan and Zoning Bylaw Amendments to allow one ADU in a house and one ADU in an accessory building, other Provincial policies require restrictions to protect natural features, particularly on lands within the ORM and the Greenbelt.
- 3.2 The proposed Official Plan Amendment states that ADUs are not permitted within the Natural Heritage System (NHS) as identified on Map D of the Official Plan. The NHS in the Official Plan is more refined and accurate (and smaller) than the NHS that is mapped in the Greenbelt Plan.

## Oak Ridges Moraine Area

- 3.3 In conformity with the ORMCP, within the ORM, ADUs are only permitted in single detached dwellings, and only within the Protected Countryside (which includes Rural Settlement Areas). ADUs are not permitted in accessory buildings in any areas of the ORM.

### Greenbelt Plan Area

- 3.4 For properties within the Greenbelt (but not within the NHS) only one ADU would be permitted on a lot. The ADU could be within the principal single dwelling, or within an accessory building if it existed on the day the revision to the Greenbelt Plan came into effect (July 1, 2017). The Greenbelt Plan does not have such restrictive policies for Garden Suites, which may be a viable alternative for those properties without existing accessory structures (see section 3.10 below).

### Urban Areas, Hamlets, and Whitebelt

- 3.5 Properties outside the NHS but within Urban Areas (including Orono), Hamlets outside of the ORM, and the “whitebelt” (lands that are neither within a settlement area or within the Greenbelt) all have the potential for one ADU in the principal residential building **and** one ADU in an accessory building, regardless of when the accessory building was constructed.

### Summary

- 3.6 In summary, the potential for ADUs in different areas of the Municipality is as follows.

- For all lands in the Municipality, ADUs (or any development) is prohibited in the NHS.
- For lands within the ORM, ADUs may be permitted only in single dwellings and only in the Protected Countryside (which includes Rural Settlements).
- For lands outside of settlement areas within the Greenbelt, ADUs may be permitted in **either** a single dwelling or an existing accessory building.
- For lands within Urban Areas (including Orono), Hamlets outside the ORM, and the “whitebelt,” one ADU may be permitted in the principal residential building, and one ADU in the associated accessory building.

- 3.7 **Figure 1** below is a map representing the above summarized potential locations for ADUs. It is important to note that this map is only schematic and meant to assist conceptualizing the permissions and restrictions at a general level. The map does not account for flood plains or other hazards, and does not identify areas where residential uses (including ADUs) are not permitted (such as commercial, industrial, or aggregate extraction areas).

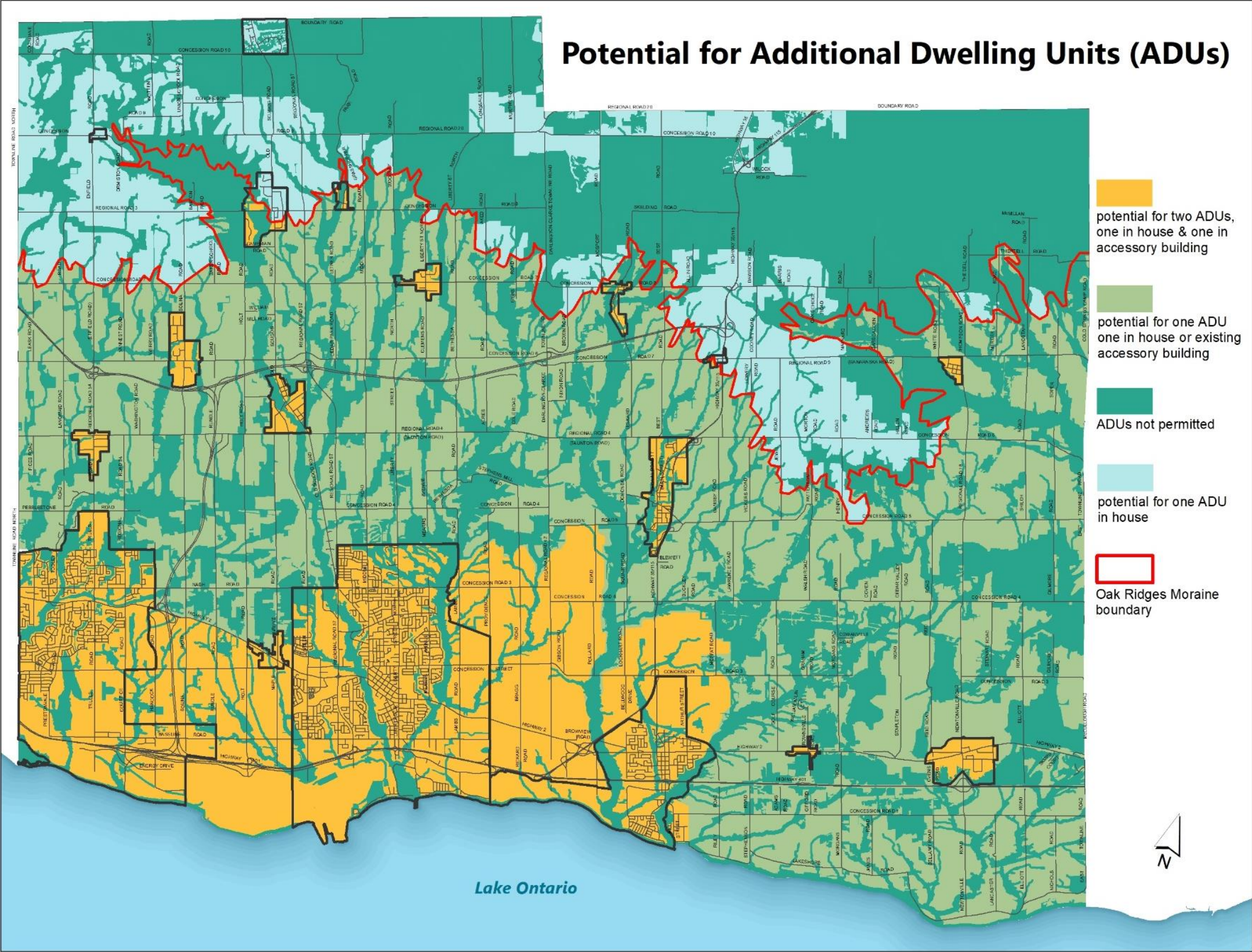


Figure 1: Map showing potential permissions for ADUs



### **Policies for Health and Safety**

- 3.8 The proposed Official Plan Amendment restricts ADUs from Hazard Lands, which include flood plains, areas subject to erosion, or steep slopes to prevent personal injury, property damage, or damage to the natural environment.
- 3.9 All ADUs will continue to be required to conform to the provisions of the Fire Code and the Ontario Building Code and obtain a building permit. Prior to building permit issuance, any development on properties with private sanitary services and water supply will need an authorizing permit from the Durham Region Health Department confirming there is sufficient capacity in the sanitary system and potable water supply for the ADU.

### **Garden Suites**

- 3.10 Garden suites are self-contained dwelling units which may be permitted on properties with a principal residential dwelling unit. They require a Temporary Use Bylaw, which is similar to a site-specific Zoning Bylaw Amendment, but is only valid for a maximum of 20 years. Garden Suites are not permitted in the ORM, and must be outside the Greenbelt NHS. However, though the Greenbelt Plan restricts ADUs to single dwellings and already-existing accessory buildings, the Plan does not have such restrictions for Garden Suites. Since Garden Suites are essentially temporary ADUs in accessory buildings, the proposed Official Plan Amendment keeps these as an option, but updates the definition of “Garden Suite” to be in conformity with the definition in the *Planning Act*.

## **4. Zoning Bylaw Amendments**

- 4.1 The proposed Zoning Bylaw Amendments are drafted to facilitate the process of allowing ADUs while also ensuring there is an appropriate level of regulation to protect the health and safety of its residents and promote liveable, functional, and attractive neighbourhoods. The proposed Zoning Bylaw Amendments implement the proposed Official Plan Amendments outlined above. This includes revising definitions, identifying where ADUs are permitted, and development regulations.

### **Areas Permitted**

- 4.2 To implement where ADUs are permitted within the ORM, the proposed Amendments to Zoning Bylaw 2005-109 would allow one ADU in a single detached dwelling within the Rural Settlement Zone and the Agricultural Zone.
- 4.3 For lands south of the ORM, the proposed Amendments to Zoning Bylaw 84-63 reference land designations within the Official Plan to implement required restrictions. Zoning bylaws do not typically rely on other documents to implement policy, but Staff feel this approach is acceptable on an interim basis until the comprehensive zoning bylaw review is complete.

### **ADUs in principal residential buildings**

- 4.4 The proposed Zoning Bylaw Amendments state that an ADU within a principal residential building cannot be larger than the principal dwelling unit within that building. Though O. Reg 384/94 prohibits regulating the relative size of two units within a principal residential building, this proposed regulation is only to clarify which unit is the ADU when registering the ADU with the Municipality.
- 4.5 Principal residential buildings in urban areas with an ADU must have a separate entrance from the side or rear if not a shared front door. This urban design regulation applies to all residential building forms, but will be particularly effective in prohibiting potentially for four front doors of a semi-detached building, each dwelling containing an ADU.

### **ADUs in accessory buildings**

- 4.6 The proposed Amendments regulating accessory buildings containing an ADU are meant to facilitate a reasonably sized ADU while also ensuring these accessory buildings are secondary to the principal residential building.
- 4.7 Accessory buildings containing an ADU could be in the front or exterior side only if the principal residential building is set far back on the lot. Other yard setback regulations address Ontario Building Code requirements, and potential stormwater and privacy concerns. The proposed heights are intended to facilitate a one-and-a-half storey ADU within urban areas and a full two storeys in rural areas.
- 4.8 The proposed Amendments regulating the size of accessory buildings with an ADU are through lot coverage rather than floor area. As proposed, there are three limits to the maximum footprint of an accessory building, and whichever limit is reached first is the maximum. The three limits are: 10% of the lot area; 120 square metres; and the zone's maximum total lot coverage (usually 40%).
- 4.9 An accessory building containing an ADU with a 120 square metre footprint would be the largest possible, and it would only be possible if 120 square metres is less than 10% of the lot, and all buildings and structures do not exceed the zone's maximum lot coverage for all buildings and structures.
- 4.10 For example, on an 800 square metre lot (approx. 8600 square feet), the maximum footprint of an accessory building containing an ADU would be 80 square metres (10% lot coverage), but only if the accessory building combined with all other structures did not exceed the zone's maximum total permitted lot coverage.

- 4.11 As a second example, on a 4000 square metre lot (approx. 1 acre) the maximum footprint of an accessory building containing an ADU would not be 10% of the lot (400 square metres) but rather 120 square metres, assuming all combined structures would not exceed the zone's maximum total permitted lot coverage.

### Regulation for all ADUs

- 4.12 Parking requirements remain the same as they are now: one parking space per ADU or Garden Suite. O. Reg. 299/19 states that only one parking space is required for each ADU, unless a municipality passes a bylaw requiring less. Municipalities cannot require more than one parking space per ADU.
- 4.13 Currently, limited home occupations are permitted within multi-unit buildings as detailed in the Zoning Bylaw. It is proposed that the same opportunities be afforded to those in ADUs, even if they are in an accessory building.
- 4.14 All ADUs, regardless if they are in the principal or accessory building, must conform to the Ontario Building Code and Ontario Fire Code. The requirement that all ADUs be registered with the Municipality will continue to help enforce conformity to zoning and other regulations.

### Exception Zones

- 4.15 There are two Agricultural Exception Zones that currently permit an "apartment-in-house" with regulations. The proposed amendments are more permissive, so it is proposed that these Exception Zones be removed to ensure fairness for these property owners. There are two other Exception Zones that are proposed to be amended only to update the terminology from "apartment-in-house" to "additional dwelling unit."

## 5. Public Notice and Submissions

### Public Notice

- 5.1 In accordance with the *Planning Act*, the statutory Public Meeting was advertised at least 20 days prior to the date of the Public Meeting (September 13, 2021). The Public Meeting was advertised in both the Clarington This Week and the Orono Times for four weeks, beginning on August 18, 2021.
- 5.2 On August 17, 2021, the website [www.clarington.net/ADUs](http://www.clarington.net/ADUs) was published. The website provides information on the project and hosts the proposed Official Plan and Zoning Bylaw Amendments (**Attachment 2** and **Attachment 3** of this Report) as well as the comparison table (**Attachment 1**).

- 5.3 The owners of the four properties where an Exception Zone is proposed to be removed or amended received the Notice of the Public Meeting along with a short explanatory letter. They were invited to reach out directly to Staff who could help explain the situation.

## Public Submissions

- 5.4 Since the Notice of the Public Meeting was advertised in the newspapers on August 18, 2021, Staff have received comments from six residents: two of which oppose the project, one fully supports the expanded permissions, and the remaining three support the expanded permissions, but with comments about where ADUs should or should not be permitted.

## 6. Department and Agency Comments

- 6.1 In accordance with the *Planning Act*, Notice of the Public Meeting was either mailed or emailed to the prescribed public bodies. Over 20 departments and agencies were requested to provide comments on the proposed Official Plan and Zoning Bylaw Amendments. As of writing this report, comments from most of these agencies are yet to be received. However, preliminary comments from the Durham Health Department state they have no concerns as the requirement for a building permit will ensure there is sufficient water supply and private sanitary service capacity to serve any new ADUs.

## 7. Next Steps

- 7.1 The purpose of this report is to provide Council and the public background and explanation for the proposed Official Plan and Zoning Bylaw Amendments found in the Attachments to this report. Staff will consider comments received leading up to, during, and after the Public Meeting and bring to Council a report with recommended Official Plan and Zoning Bylaw Amendments.
- 7.2 If Council approves the Official Plan and Zoning Bylaw Amendments to implement these expanded permissions for ADUs, a new bylaw to replace [Bylaw 97-77](#) will be brought to Council which will require ADUs to be registered and their associated regulations can be properly enforced.
- 7.3 As well, once Official Plan and Zoning Bylaw Amendments are approved by Council, Staff will update the current [basement or in-house apartment website](#) to assist residents with applications for adding an ADU to their property.

## 8. Concurrence

Not Applicable.

## 9. Conclusion

- 9.1 It is respectfully recommended that following the statutory Public Meeting and receiving comments from members of the public and Council, Staff will prepare a recommendation report for Council's consideration.
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### Staff Contacts:

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### Attachments:

- Attachment 1 – Comparison Table with Explanatory Comment of Proposed Official Plan and Zoning Bylaw Amendments
- Attachment 2 – Proposed Official Plan Amendment
- Attachment 3 – Proposed Zoning Bylaw Amendment

### Interested Parties:

List of Interested Parties available from Department.