

THE CORPORATION OF THE MUNICIPALITY OF MISSISSIPPI MILLS

STAFF REPORT

DATE: June 7, 2022

TO: Committee of the Whole

FROM: Melanie Knight, Senior Planner

SUBJECT: Background Report – Z-07-22 – Additional Residential Units (Secondary Dwelling Units)

OWNER/APPLICANT: Municipally-Initiated Zoning By-law Amendment

BACKGROUND

Changes to The Planning Act

Over the past decade, the Provincial Government has introduced several statutory changes to the *Planning Act, 1990* in order to permit new forms of housing. The *Planning Act* prescribes matters of Provincial Interest and establishes the ground rules for land use planning in Ontario; the *Act* includes policies, regulations and procedures related to Official Plans in Part III of the *Act*, and Zoning By-laws and other land use controls in Part V of the *Act*.

The *Planning Act* was recently amended as a result of Bill 108 - *More Homes, More Choice Act, 2019*, which amended Ontario's second unit framework in subsection 16(3) of the *Act* with new provisions for "Additional Residential Units". Bill 108 received Royal Assent in the Ontario Legislature on June 6th, 2019, and the enabling Regulations were proclaimed in to force on September 3, 2019.

These changes to the *Planning Act* introduced policies for Additional Residential Units requiring municipal official plans to permit Additional Residential Units in detached and semi-detached dwelling as well as rowhouses (townhouses). The specific wording of the *Act* is below:

Official plan

- 16 (3) *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.*

Section 35.1 of the *Planning Act* provides further direction to municipalities requiring that Additional Residential Units be permitted within the municipality's zoning by-law. The specific wording of the *Act* is below:

By-laws to give effect to additional residential unit policies

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

The Bill 108 amendments stipulate that up to two Additional Residential Units (one contained within the principal dwelling unit, and one contained in a building or structure ancillary to the principal dwelling unit) are permitted on every lot where a detached house, semi-detached house or rowhouse (townhouse) is permitted.

The intent of these amendments is reflected in the provincial interests outlined within the Provincial Policy Statement, 2020 (PPS), which promotes the development of strong, livable, healthy, and resilient communities through efficient land use (s.1.1.1). The PPS directs municipalities to permit all forms of housing to provide an appropriate range and mix of housing types and densities (s.1.4.3). Furthermore, the PPS strongly encourages municipalities to permit and facilitate all forms of residential intensification and redevelopment, including second units.

As noted in the report presented to [Committee of the Whole on March 1, 2022](#) regarding housing supply, an update to the Municipality's Zoning By-law from the Planning Department was forthcoming in order to implement the above noted amendments to the *Planning Act*.

Additional Residential Units

In the Mississippi Mills context, Additional Residential Units are referred to as "Secondary Dwelling Units" and "Accessory Apartments" in the Community Official Plan and Zoning By-law #11-83. These uses are permanent residential dwelling units that are located on the same lot as a principal/primary dwelling unit but are separate and subsidiary to the principal dwelling unit. Secondary Dwelling Units are differentiated from "Accessory Dwelling Units" and "Garden Suites" in Zoning By-law #11-83, which respectively refer to dwelling units that are accessory to a non-residential use, and dwelling units which are detached and portable.

Additional Residential Units provide municipalities an additional tool to help develop a range of housing options in their communities, with an emphasis on providing a more attainable housing option. **Attainable Housing** is a newer term that is being used to describe housing that may be provided slightly lower than the average market costs for purchasing a home or renting a unit. It is important to note that attainable housing does

not necessarily meet the common definitions of affordable housing unless the housing is secured through a legal agreement to ensure it remains affordable for the long-term.

Encouraging Additional Residential Units is important because they:

- (1) provide homeowners with alternative means of earning additional income to help meet the costs of home ownership;
- (2) support changes in demographics through housing options for immediate and extended families; and,
- (3) maximize densities to support and enhance local businesses, labour markets, and the efficient use of infrastructure.

The following table provides an overview of some of the more common terms associated with Additional Residential Units.

Common General Definitions	
<i>Additional Residential Units (ARUs) and Secondary Dwelling Units (SDUs)</i>	Permanent second residential dwelling units that are located on the same lot as a principal or primary residential dwelling unit; they are separate and subsidiary to the principal dwelling unit.
<i>Coach Houses</i>	Detached, permanent second residential dwelling units that are located on the same lot as a principal or primary residential dwelling unit; they are separate and subsidiary to the principal dwelling unit.
<i>Accessory Apartments</i>	<i>Additional Residential Units (ARUs) and Secondary Dwelling Units (SDUs)</i> that are commonly understood to be located within the same building as the principal dwelling unit.
<i>Accessory Dwelling Units</i>	Dwelling units that are accessory to a non-residential use.
<i>Garden Suites</i>	Temporary and portable second residential dwelling units that are in the rear yard of a principal or primary residential dwelling unit; they are detached buildings that are subsidiary to the principal dwelling unit.

Current Policy Framework in Mississippi Mills

The Municipality's Zoning By-law is currently not aligned with the 2019 Provincial direction regarding Additional Residential Units. The existing Secondary Dwelling Unit provisions contained in Zoning By-law are more restrictive than what the *Planning Act* prescribes. Secondary Dwelling Units are currently only permitted in the same building as the principal dwelling unit and only Accessory Apartments are permitted on lands outside of Settlement Areas. Notably, the Community Official Plan (COP) is more permissive than the Zoning By-law and does conform to the 2019 changes to the *Act*, however, the implementation of the COP policies regarding Secondary Dwelling Units appears to have never been fully implemented in the Municipality's Zoning By-law.

Municipal Review and Best Practices

A review of zoning by-law provisions relating to Secondary Dwelling Units from five municipalities across Ontario was conducted by Planning Staff as part of this study. A fulsome comparison chart of these provisions from the following municipalities can be found in Appendix A:

Municipalities Reviewed			
Municipality:	Type:	Population:	Area:
Brant County	Single Tier	39,474	843.25 km ²
Norfolk County	Single Tier	67,490	1,607 km ²
City of Ottawa	Single Tier	1,046,440	2,790 km ²
City of Belleville	Single Tier	55,071	246.8 km ²
City of Woodstock	Lower Tier	46,705	43.79 km ²
Township of Central Frontenac	Lower Tier	4,892	1,025.20 km ²
<i>Municipality of Mississippi Mills</i>	<i>Lower Tier</i>	<i>14,740</i>	<i>519.58 km²</i>

The municipalities reviewed generally implemented the required zoning changes outlined by the *Act*; however, some municipalities did impose more restrictive provisions than what the *Act* prescribes. Staff do not recommend this approach as it is generally best practice to follow the prescribed policies outlined in the *Act* regardless of whether the subject amendment can be appealed.

To note, Section 36.1 of the *Act* restricts appeal rights to the Minister of Municipal Affairs and Housing for zoning by-laws that implement Additional Residential Unit policies, which means that the implementing zoning related to this study is not able to be appealed by the public or agencies, only the Minister can launch an appeal.

A summary of the best practices for the provisions relating to Secondary Dwelling Units can be found in Appendix B. As a result of the best practice review, consideration of the *Planning Act* legislation and related regulations, draft amendments to the existing Zoning By-law provisions are contained in Appendix C.

PURPOSE AND INTENT

The purpose and intent of the Zoning By-law Amendment is to align Comprehensive Zoning By-law #11-83 with both the amendments made to the *Planning Act* in 2019 and with the COP policies regarding Secondary Dwelling Units.

In the past few years, as Secondary Dwelling Units have become more popular. Since there is an established framework since 2019 in Bill 108, Planning Staff have worked to accommodate requests from landowners to establish Secondary Dwelling Units that do not meet the current provisions of the Zoning By-law by directing these requests to the Committee of Adjustment by way of a Minor Variance application. This approach helps applicants to avoid the more costly and burdensome Zoning By-law Amendment process; however, it does not provide a clear and uniform position on Secondary Dwelling Units from the Municipality. This approach also adds an additional layer of cost and time for applicants to establish the Secondary Dwelling Unit and in some cases, deters property owners from following through with the additional unit, thus losing the addition of a much-needed dwelling unit in the Municipality.

This study and implementing proposed amendment will establish clear and uniform provisions for Secondary Dwelling Units across the entire Municipality. These provisions will reflect the intent of the COP and the *Act*, remain cognizant of the Municipality's housing needs, and respect the Municipality's existing character.

DESCRIPTION OF PROPERTY & SURROUNDING LAND USES

The subject Zoning By-law Amendment is a Municipal-wide Zoning By-law Amendment. All lands within the Municipality are subject to this amendment – both in settlement areas and outside of settlement areas.

The proposed zoning contained in Appendix C recommend that Secondary Dwelling Units continue to be limited to areas where residential uses are a permitted use and provide a distinction between Secondary Dwelling Units on municipal services and private services.

SERVICING & INFRASTRUCTURE

The servicing and infrastructure implications of the subject Zoning By-law Amendment will be reviewed on a case-by-case basis by Planning, Building and Public Works Staff. Planning Staff are currently examining having Secondary Dwelling Units be subject to a "Lite" Site Plan Control process in the 2022 update to the Municipality's Site Plan Control By-law. The Site Plan Control process will work to capture any servicing and infrastructure impacts for each new Secondary Dwelling Unit proposed.

Directions regarding parking for Additional Residential Units have been provided by the related Regulation 199/19 (O. Reg. 299/19) associated with the *Planning Act* changes. One parking space per dwelling unit is listed as the requirement in the O. Reg. 299/19, unless the principal dwelling unit requires no parking spaces. Tandem parking (one parking space behind another) is permitted for the Additional Residential Unit's required parking space; however, the regulations also permit municipal councils to pass zoning by-laws requiring no parking spaces for Additional Residential Units.

In keeping with both O. Reg. 299/19 and the context of Mississippi Mills, the draft zoning contained in Appendix C recommends that one parking space be required for each Secondary Dwelling Unit. In the case of a Secondary Dwelling Unit in a townhouse unit, the draft zoning requires an additional parking space which can be either a tandem parking space or one located elsewhere on the lot (ex. side by side in a driveway).

COMMUNITY OFFICIAL PLAN (COP)

No changes are proposed for the Municipality's Community Official Plan (COP) as it generally conforms to the *Act*.

Residential uses, in the form of single detached dwelling, semi-detached dwelling or duplex dwelling, are permitted in the following COP designations:

- Agricultural
- Rural
- Rural Settlement Areas and Villages
- Residential

Lands that are affected by the above noted designations would be permitted to have a Secondary Dwelling Unit. Secondary Dwelling Units are explicitly permitted in the Agricultural, Rural and Residential designations.

The COP includes policies permitting Secondary Dwelling Units within a single detached dwelling, semi-detached dwelling, or duplex dwelling or in a detached building ancillary to these housing types. The policies do not restrict Secondary Dwelling Units between Settlement Areas and lands outside of Settlement Areas and further stipulate that only one second unit per property is permitted and must connect to existing residential servicing.

These Official Plan policies already conform to the *Act* by allowing these units to be contained in both the same building as the principal dwelling unit or in detached buildings ancillary to principal dwelling units.

Staff note that there are some minor differences between the COP policies and the *Act* including allowing duplex dwellings to have Secondary Dwelling Units whereas the *Act* is silent on duplex dwellings. The *Act* also specifies that "rowhouses" are permitted to

have Secondary Dwelling Units; however, the COP is silent on rowhouses. Within the Zoning By-law, the term “rowhouse” generally includes vertically separated triplexes and fourplexes as well as townhouses. Regardless of these minor deviations from the *Act*, staff are of the opinion that the current Community Official Plan policies adhere to the *Planning Act* and associated Regulations and there is not a requirement to amend the COP policies for Secondary Dwelling Units.

The COP policies that restrict the number of Secondary Dwelling Units to one per lot and require that they be connected to the existing servicing of the principal dwelling unit reflect the will of Council at the time of the passing of the above noted COP policies and respect the local context. In keeping with these COP policies, the suggested zoning is expected to continue to respect these restrictions.

Secondary Dwelling Units are expected to conform to all other applicable COP policies including all the General Policies contained in the COP.

ZONING BY-LAW #11-83

The subject Zoning By-law Amendment proposes to revise the definition for Secondary Dwelling Units and amend the existing provisions regarding Secondary Dwelling Units in Section 8.16.

Permitted Zones

The proposed zoning permits Secondary Dwelling Units in both the same building as the principal dwelling unit and in detached buildings ancillary to principal dwelling units, such as detached garages, except in the case of rowhouses (vertically attached triplexes, fourplexes and townhouses).

The following zones are where residential uses are permitted and are recommended that Secondary Dwelling Units should also be permitted:

- Agricultural Zone (A)
- Rural Zone (RU)
- Residential First Density Zone (R1)
- Residential Second Density Zone (R2)
- Residential Third Density Zone (R3)
- Rural Residential Zone (RR)

Servicing

The proposed zoning draws a distinction between Secondary Dwelling Units on lots that are serviced by municipal water and sewer and lots that are serviced by private services (well and septic).

For those lots on municipal services, the proposed zoning requires that the Secondary Dwelling Unit be serviced through the existing dwelling on the property. This means that no new servicing connections to the municipal water and sewer in the right-of-way would be permitted to service the Secondary Dwelling Unit, reducing the infrastructure impacts on the municipality.

For lots on private services, the proposed zoning requires shared servicing by one of the two private services. This means that the Secondary Dwelling Unit needs to be connected to either the septic system or the well. Through the building permit process, the necessary upgrades to the septic system (if shared) will be required. If an applicant proposes a shared well, it may necessitate supplementary studies or testing to determine water quantity and quality from the existing well as part of the Site Plan Control process. A new well (not shared) would need to meet all of the standard drinking water requirements for potable water through the building permit process and may also require supplementary studies or testing, which would be on site specific basis during the Site Plan Control process.

Maximum Distance from Principal Dwelling Unit

Staff note that some municipalities have included a maximum setback for Secondary Dwelling Units. This maximum setback has been implemented to ensure that the land is used efficiently as possible and for the rural and agricultural context, that viable agricultural land is not taken up by the construction of a Secondary Dwelling Unit. A maximum setback also helps to ensure that no new, unnecessary driveway entrances would be required from the right-of-way to access the second unit. After a careful review of some of these maximum setbacks in other municipalities, staff have included a 40-metre maximum setback from the principal dwelling unit in the draft zoning.

Severability

A key issue with detached Secondary Dwelling Units is the ability for these units to be severed in the future.

The fundamental basis of permitting detached Secondary Dwelling Units is that they remain subsidiary to the principal dwelling unit on the property. The intent of these units is to be secondary to a main residential use and based on the best practice research staff are proposing a zoning provision stating that the unit is clearly subsidiary to the principal dwelling unit and that it cannot be severed.

Further, the proposed requirements for a maximum setback from the principal dwelling and for shared servicing (both on public and private) will help to ensure that these units remain subsidiary to the principal dwelling unit and are not severed in the future.

The full text of the proposed zoning is contained in Appendix C. The original by-law text has also been included in Appendix D.

PUBLIC AND AGENCY COMMENTS RECEIVED

Planning Staff circulated the application in accordance with the provisions of the *Planning Act* to the public, internal departments and external agencies and organizations.

At the time of writing this report, comments had not yet been received from technical agencies. As many of the recent Secondary Dwelling Unit proposals have required a Minor Variance application, Planning staff previously engaged with technical agencies and internal departments on this subject matter. A fulsome synopsis of the technical agency comments will be included in a subsequent Committee and Council report.

A [public facing version of this background report](#) was posted to a [Public Engagement page](#) on the Municipality's website and at the time of writing this report, no comments have been received by the public.

NEXT STEPS

A staff report with a more fulsome analysis of the proposed amendment will be prepared following the public meeting, in order to fully consider any and all public comments received.

All of which is respectfully submitted by, Approved by,



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APPENDICES

- Appendix A – Zoning Provision Comparison Chart
- Appendix B – Zoning Provision Best Practices Summary
- Appendix C – Suggested Zoning
- Appendix D – Existing Zoning