

Date: 2023-01-17

Subject: **Information Report – City-initiated Official Plan Amendment and Zoning By-law Amendment to Amend Additional Residential Units Regulations to Conform to Bill 23**

Contact: Shahinaz Eshesh, Policy Planner III, Planning, Building and Growth Management Department

Report Number: Planning, Bld & Growth Mgt-2023-116

Recommendations:

1. **THAT** the report titled, “**Information Report – City-initiated Official Plan Amendment and Zoning By-law Amendment to Amend Additional Residential Units Regulations to Conform to Bill 23**” to the Planning and Development Committee meeting of February 13, 2023, be received;
2. **THAT** staff be directed to report back to Planning and Development Committee with the results of the Public Meeting and a staff recommendation; and,
3. **THAT** a copy of this report and Council resolution be forwarded to the Region of Peel for information.

Overview:

- **Bill 23, the *More Homes, Built Faster Act, 2022* received Royal Assent in November 2022. The Bill made changes to several pieces of legislation, including the *Planning Act*.**
- **In accordance with Provincial legislation and changes to the *Planning Act*, which are in effect, all municipalities in Ontario are required to implement policies that authorize the use of a third additional residential unit within a detached, semi-detached or townhouse dwelling. The City of Brampton Official Plan and Zoning By-law currently do not permit this.**
- **In August 2022, the City adopted amendments to the Official Plan and Zoning By-law to conform to Bill 108, the *More Homes, More Choice Act, 2019*, to implement and facilitate the construction of additional residential units (ARUs) city-wide in the form of Second Units and Garden Suites.**

- **Brampton has permitted Second Units since 2015 and Garden Suites since August 2022, subject to the applicable Zoning By-law requirements and the Registration By-law.**
- **Brampton has the ability to establish regulations and standards for Additional Residential Units, including necessary registration to ensure ARUs are safe, legal and livable. The *Planning Act* overrides municipal by-laws that do not allow for the addition of a third residential unit in the principal dwelling, leaving these units unregulated if the municipality does not adopt appropriate regulations and standards.**
- **The purpose of this report and the statutory public meeting is to present the draft City-Initiated Official Plan and Zoning By-law Amendments to conform to Bill 23 as it relates to Additional Residential Units.**
- **This report and proposed amendments are consistent with the “A City of Opportunities” theme in the Term of Council Priorities. It supports the creation of more inclusive and livable communities in Brampton.**

Background:

Bill 23, the *More Homes Built Faster Act, 2022*, received Royal Assent on November 28, 2022. The stated intent of Bill 23 is to implement some of the actions contained in Ontario’s Housing Supply Action Plan, including the building of 1.5 million new homes in the province by 2031. Bill 23 made changes to several pieces of legislation, including the *Planning Act*. Staff’s report entitled “Bill 23 – More Homes Built Faster Act and Implications for the City of Brampton” was brought to the November 23, 2022 Committee of Council meeting, and outlined a preliminary analysis of the most significant impacts that the changes will have on the City of Brampton.

Amongst the legislative changes were those to the Additional Residential Unit provisions of the *Planning Act*, which had originally been introduced through Bill 108, the *More Homes, More Choice Act, 2019*. The Province indicated that Bill 108 was intended to increase housing options and boost housing supply in order to address Ontario’s housing crisis. Under this legislation, municipalities were required to adopt policies in Official Plans and Zoning By-laws to permit the use of additional residential units city-wide within detached, semi-detached, or townhouse units, and within an accessory structure located on the same property. This had the effect of allowing up to three dwelling units per residential lot.

The City responded expeditiously to Bill 108 by adopting an Additional Residential Unit policy framework in August 2022 that included zoning requirements, a registration process, and numerous other amendments. Brampton has permitted Second Units since 2015 and Garden Suites since August 2022, subject to the applicable Zoning By-law and

the Registration By-law. The amendments introduced the term “Additional Residential Units” (ARU) which applied to both Second Units and Garden Suites. A Garden Suite is defined as a self-contained residential dwelling unit within an accessory building or structure, with its own cooking facilities, sanitary facility and sleeping area, and located at the rear or side yard of a detached, semi-detached, or townhouse dwelling.

Current Situation:

Additional Residential Units (ARUs)

Since adoption of the policies described above, there have been several inquiries regarding construction of Garden Suites, though no formal applications have been submitted as of the date of this report. As of January 2023, there are 15,727 registered Second Units in the City. The City has received numerous inquiries from homeowners and contractors/developers interested in constructing a third unit within a detached, semi-detached or townhouse dwelling. Staff have advised that the City is in the process of preparing a regulatory framework to facilitate the construction and registration of three-unit dwellings in response to the requirements of Bill 23.

Per Bill 23, ARUs are permitted as-of-right across Ontario, whether or not a municipality adopts an Official Plan Amendment and enacts zoning to recognize these units. As amended by Bill 23, the *Planning Act* overrides existing zoning by-laws to allow up to three residential units per lot as follows:

- Up to three residential units in the primary building, or
- Up to two residential units in the primary building and one in an ancillary building or structure.

Changes required to existing ARU provisions as a result of Bill 23

Changes to the existing Additional Residential Unit framework under Bill 23 are proposed to facilitate the creation of additional residential units. The following are the major changes that affect the City of Brampton, and the City’s current ARU provisions:

Changes as a result of Bill 23	City Response
<p>1. “As-of-right” permissions for up to three units per residential lots that contain detached, semi-detached, and townhouse dwellings, either (1) one attached ARU and one garden suite, or (2) two attached ARUs.</p>	<p><i>The City currently permits up to one second unit and one garden suite on a lot that contains a detached, semi-detached, and townhouse dwellings. The City is required to permit two attached ARUs. As a result, the proposed amendments include a number of term and definition changes, including the renaming of “second unit” to “attached ARU”</i></p>

<p>2. No minimum floor area requirements for ARUs</p>	<p><i>The City does not regulate the minimum size (in gross floor area) for ARUs, however the City requires that ARUs are ancillary to the principal dwelling and are lesser in size. The City is in compliance with this provision, however the distinction between a principal dwelling unit is no longer relevant as all three units may be equal in size.</i></p>
<p>3. No more than one parking space is required for each additional residential unit</p>	<p><i>The City requires one parking space if there are two ARUs located on a lot. A parking space is not required if there is only one ARU. The City is in compliance with this provision and does not propose any changes to parking standards.</i></p>
<p>4. ARUs are exempt from municipal and regional development charges in accordance with the <i>Development Charges Act, 1997</i>. Garden suites are subject to educational development charges, based on the EDC rate at the time of building permit issuance, in accordance with the <i>Education Act, 1990</i>.</p>	<p><i>No changes are required. The City does not require Development Charges for ARUs. The City collects EDCs on behalf of the school boards, based on the EDC rate at the time of building permit issuance for garden suites only.</i></p>
<p>5. The City established the ARU Registration By-law, which requires the registration of second units (Two-Unit Dwellings) and garden suites. However, the ARU Registration By-law does not require the registration of a third attached unit, as introduced through Bill 23.</p>	<p><i>The City will need to amend the ARU Registration By-law to include the requirement for a second additional unit within the principal dwelling to be registered.</i></p>

As Brampton is one of the municipalities in Ontario with the highest number of ARUs (15,727 registered Second Units and no Garden Suites) it is critical that the City advance amendments for ARUs and establish a registration process. If the City does not make amendments to the Official Plan and Zoning By-law to recognize the ARUs permitted as-of-right under Bill 23, it will not have all the necessary tools ensure such units are appropriately regulated.

Further to the above referenced legislative changes, staff has proposed amendments to the existing ARU provisions in the Official Plan and the Zoning By-law.

Proposed Official Plan and Zoning By-law Amendments

This report presents a draft Official Plan Amendment (OPA) and Zoning By-law Amendment (ZBA), which amends the recently adopted regulations for Additional Residential Units. The documents introduce “Attached ARU” as a new term, and permit two attached ARUs on applicable residential lots in the City. Both Attached ARUs and Garden Suites will be a permitted form of ARUs.

The existing Second Unit (Two-Unit Dwelling) provisions are proposed to be amended, to adopt new terminology and facilitate the creation of an additional unit within a principal dwelling. The existing Garden Suite provisions are not proposed to be amended, other than further clarification to the policies, or improvement to the structure of the overall sections within the Official Plan and/or Zoning By-law.

In accordance with Bill 23, single-detached, semi-detached, and/or townhouse lots may be permitted up to a maximum of two ARUs per lot. Either:

- (1) A maximum of one attached ARU located within the single-detached, semi-detached, and/or townhouse dwelling, AND a maximum of one garden suite in an accessory structure; OR,
- (2) A maximum of two attached ARUs located within the single-detached, semi-detached, and/or townhouse dwelling (e.g., two basement apartments).

The proposed Official Plan Amendment (see Appendix 1) and Zoning By-law Amendment (see Appendix 2) have been prepared by City staff for public review and comment. Staff submit that the proposed amendments conform to the overall intent of Bill 23 to proactively plan for ARUs and encourage a diversity of housing options in Brampton.

Building permit and registration process

Staff are proposing that all Additional Residential Units, including Attached ARUs (formerly “Second Units”) and Garden Suites will continue to be required to follow the established building permit and registration process. The one-time registration process will ensure that all ARUs meet the requirements under the Ontario Building Code and Zoning By-law, which are intended to make these units safe, legal and livable.

An updated registration by-law will be included with the final recommendation report.

Public Meeting Notification Area

Notice of Public Meeting for the proposed Official Plan and Zoning By-law amendments was advertised in the Brampton Guardian and posted on the City’s website.

Provincial and Regional Interest

The proposed OPA and ZBA are consistent with matters of Provincial and Regional interest. See Appendix 3 for a summary of applicable policies.

Corporate Implications:

Financial Implications:

There are no financial implications directly associated with this report.

Term of Council Priorities:

This report directly aligns with the Strategic Direction – Brampton is a City of Opportunities, in particular the Council Priority to Create Complete Communities. The proposed amendments to the Official Plan and Zoning By-law support the implementation and recommendations of the Housing Strategy, facilitating the creation of a more inclusive and livable community.

Living the Mosaic – Brampton 2040 Vision

This report and proposed policy amendments generally align with the Social Matter and Housing Vision, in particular Action #5-2 Housing, by providing additional opportunities to accommodate affordable housing units in the City.

Next Steps:

The City-initiated draft Official Plan and Zoning By-law Amendments have been prepared for formal public review and comment.

Following the statutory public meeting, staff will report back to Planning and Development Committee with a final recommendation on the proposed Official Plan Amendment, Zoning By-law Amendment, and a revised Registration By-law by Q2 2022.

Conclusion:

In compliance with Provincial legislation, Brampton is expeditiously responding to the proactive plan for ARUs to ensure the City establishes zoning requirements and a registration process that ensures units are safe, legal, and habitable. The proposed

amendments to the Official Plan and Zoning By-law will support the supply and range of affordable housing accommodations in the City.

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Attachments:

Appendix 1 – Draft Official Plan Amendment

Appendix 2 – Draft Zoning By-law Amendment

Appendix 3 – Policy Planning Context and Analysis Summary