

May 10, 2013

CL 6-2013, May 9, 2013
ICPC 6-2013, May 1, 2013
Report ICP 37-2013

Bonnie Nistico-Dunk, City Clerk
City of St. Catharines
P.O. Box 3012
St. Catharines, ON L2R 7C2

SENT ELECTRONICALLY

Official Plan Amendment No. 11
Proposed Amendment to Permit Accessory Apartments in
Agricultural, Rural and Rural Residential Designations
Town of Fort Erie
ICP 37-2013

Dear Ms. Nistico-Dunk,

Regional Council, at its meeting of May 9, 2013, approved the following recommendations of its Integrated Community Planning Committee:

That Report ICP 37-2013, May 1, 2013, respecting Official Plan Amendment No. 11, Proposed Amendment to Permit Accessory Apartments in Agricultural, Rural and Rural Residential Designations, Town of Fort Erie, **BE RECEIVED as amended**;

That Amendment No. 11, Appendix I to Report ICP 37-2013, to the Town of Fort Erie Official Plan **BE APPROVED**;

That all parties **BE NOTIFIED** of Regional Council's decision on this Amendment in accordance with the Planning Act and its regulations;

That staff **ISSUE A DECLARATION** of final approval of the Amendment after Regional Council's decision has been given; and

That a copy of this report BE CIRCULATED to the Local Area Municipalities for information.

A copy of Report ICP 37-2013 is enclosed for your information.

Yours truly,

A handwritten signature in black ink, appearing to be 'J. Pilon', written over a horizontal line.

Janet Pilon
Regional Clerk
:nld

cc: Clerks of the Local Area Municipalities
P. Robson, Commissioner, Integrated Community Planning
K. Martel, Planner
C. Benson, Manager, Policy Planning
M. L. Tanner, Associate Director, Regional Policy Planning
S. McPetrie, Administrative Assistant, Integrated Community Planning
N. Smagata, Administrative Assistant

Niagara Region

REPORT TO: Integrated Community Planning Committee

SUBJECT: Official Plan Amendment No. 11
Proposed Amendment to Permit Accessory Apartments in
Agricultural, Rural and Rural Residential Designations
Town of Fort Erie

RECOMMENDATIONS

1. That Amendment No. 11, Appendix I, to the Town of Fort Erie Official Plan **BE APPROVED**.
2. That all parties **BE NOTIFIED** of Regional Council's decision on this Amendment in accordance with the *Planning Act* and its regulations.
3. That staff **ISSUE A DECLARATION** of final approval of the Amendment after Regional Council's decision has been given.

PURPOSE

The purpose of this report is to provide Council with the necessary information to approve of the Town of Fort Erie's Official Plan Amendment (OPA) 11. The Amendment permits accessory apartments in agricultural and rural areas consistent with the Town's Zoning By-Law and in keeping with provincial objectives for providing secondary residential units. This report supports Council Business Plan Themes relating to a Responsive Region, Open for Business and Healthy Communities.

BUSINESS IMPLICATIONS

There are no direct financial implications associated with the approval of this Official Plan Amendment. However, should there be appeals of Regional Council's decision; Regional Staff will provide a further report on financial implications.

REPORT

The Town of Fort Erie Council on February 11, 2013 adopted OPA 10 and OPA 11 as a part of a package of housekeeping amendments to address where the Official Plan was unduly restrictive on several properties in the Town. It was determined through pre-consultation that the Town's Amendment to permit second suites within the Agricultural, Rural and Rural Residential areas was the only component of the housekeeping amendment that did not meet the criteria for exemption from Regional Council

approval¹. In this regard, OPA 11 is being brought forward separately as it is not site-specific in nature.

Nature and Purpose of the Amendment

It is important to stress that the proposed amendment will permit an accessory apartment² within an existing single-detached dwelling in the Agricultural, Rural or Rural Residential designation subject to specific conditions (and does not permit new, stand-alone residential structures). The amendment implements new provincial legislation relative to new housing unit creation in existing residential buildings.

As a part of the Ministry of Municipal Affairs and Housing's (MMAH) long term affordable housing strategy, Bill 140: *Building Strong Communities through Affordable Housing Act*, 2011, was introduced. On January 1, 2012, changes to the *Planning Act* for secondary units and garden suites came into effect to reflect the provisions of Bill 140. The aim of the changes to the *Planning Act* is to provide greater support to municipalities for opportunities for affordable housing, such as secondary suites. These changes stipulate that:

"an official plan shall contain policies that authorize the use of a second residential unit by authorizing,

(a) the use of two residential units in a detached house, semi-detached house or rowhouse if no building or structure ancillary to the detached house, semi-detached house or rowhouse contains a residential unit; and

(b) the use of a residential unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse if the detached house, semi-detached house or rowhouse contains a single residential unit."

In order to bring their planning documents into compliance with the changes to the *Planning Act*, municipalities must incorporate the provisions as a part of the five-year Official Plan review process. The legislative change requires municipalities to establish Official Plan policies and Zoning by-law provisions to support secondary units. Further, the legislative change removes the ability to appeal the establishment of policies relating to secondary units, and provides authority for the Minister of Municipal Affairs and Housing to make regulations for the use of, and prescribing standards for, second units.

Secondary suites provide the following community benefits:

- Increase the stock of affordable rental housing.
- Provide homeowners with an opportunity to earn additional income to meet the costs of homeownership,

¹ Exemption criteria are highlighted in the Memorandum of Understanding (MOU) of the Planning Function in Niagara.

² Accessory apartments, also known as second suites, second units, basement apartments, or in-law flats, are self-contained residential units with kitchen and bathroom facilities within dwellings or within structures accessory to dwellings (such as laneway garages).

- Support changing demographics by providing more housing options for extended families, elderly parents or for a live-in caregiver,
- Create jobs in the construction/ renovation industry, and

Planning Review and Comments

For the information of members of the Integrated Community Planning Committee, in adopting second unit policies, municipalities are given the responsibility for deciding where second units are to be permitted. This responsibility is based on the notion that the local municipality may be better suited to decide where to allow accessory units, given their local knowledge of area-specific issues and needs. Specific to the Town's amendment, second suites are already permitted in some Urban Areas and, after approval of this amendment, will be permitted in the Agricultural, Rural and Rural Residential designations subject to a number of requirements. Numerous benefits to permitting second suites outside of the urban area have been identified. In particular, they provide additional housing for farm workers, allow for older farm owners to age in place as their children take over the main residence, can minimize disturbances to agricultural land and can help to minimize opportunities for further severances of land.

Another issue to note with regard to permitting second suites outside of the Urban Area is that of increased density and potential constraints on private sewage systems. However, research suggests that the number of additional second suites that would result from the changes to the *Planning Act* would not likely strain this infrastructure. This is because the demographic shift toward smaller families offsets the density and sewage strain. In order to address this concern, municipalities can ensure that servicing in areas zoned for second suites is capable of handling additional occupants. Of particular interest to the Region with regard to this Amendment is that the creation of second units in these designations will be subject to Regional approval for a sustainable private sewage disposal system. This will address any potential concerns arising from this matter.

Planning staff have reviewed this application for amendment and believe that it aligns with the Provincial Policy Statement, 2005. In addition to providing alignment between the Town's Official Plan and Zoning by-law, the amendment satisfies Provincial Policy pertaining to building strong communities as the Amendment is designed to enhance the range of affordable housing options available to residents living outside of the urban area. Most notably, this amendment is in keeping with provincial objectives established in the *Strong Communities through Affordable Housing Act*, 2011 for providing affordable housing solutions through secondary residential units.

Public Consultation and Regional Involvement

The Town of Fort Erie has provided opportunities for public participation through an open house and a public meeting, which were held on December 11, 2012 and January 14, 2013 respectively. No person came forward to speak in favour of or in opposition to the amendment at the public meeting. No written comments in favour of or in opposition to the amendment were received.

REPORTS PERTINENT TO THIS MATTER

- ICP 27-2012: Bill 140- Changes to the *Planning Act* Encouraging Secondary Units, April 4, 2012

Submitted by:

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Patrick Robson
Commissioner
Integrated Community Planning

Approved by:

A handwritten signature in black ink, appearing to be 'Mike Trojan', written over a horizontal line.

Mike Trojan
Chief Administrative Officer

This report was prepared by Kelly Martel, Planner, and reviewed by Curt Benson, MCIP, RPP, Manager of Policy Planning and Mary Lou Tanner, MCIP, RPP, Associate Director, Regional Policy Planning.

APPENDIX

APPENDIX I Amendment No. 11 to the Official Plan
for the Town of Fort Erie

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Appendix I: Amendment Number 11 to the Town of Fort Erie Official Plan

The Policy set out below, is proposed to be added to the Agricultural Section as Policy 4.5.2 VII, Rural Section as Policy 4.6.2 VI and Rural Residential Section as Policy 4.7.5.1 X.

The creation of an accessory apartment within an existing single detached dwelling shall be subject to the following requirements:

- (a) The lot size and configuration are sufficient to accommodate adequate parking and open spaces;
- (b) The building age and condition are capable of supporting the intensified use and the building code requirements as well as health and safety requirements, can be satisfied;
- (c) Accessory apartments shall be permitted in compliance with all relevant Zoning By-law provisions;
- (d) Accessory apartments, while permitted in basements, are not to be permitted in the cellar area of a dwelling;
- (e) The availability and adequacy of municipal services to accommodate the increased density;
- (f) The accessory apartment shall be approximately 45 sq. m. (584 sq. ft.); and
- (g) Regional approval for a sustainable private sewage disposal system.