



Greater Ottawa Home Builders' Association
Association des constructeurs d'habitations d'Ottawa

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December 9, 2022

The Hon. Steve Clark
Ministry of Municipal Affairs and Housing
777 Bay Street, 17th floor
Toronto, Ontario M7A 2J3

Re: ERO# 019-6197 Proposed Changes to Ontario Regulation 299/19: Additional Residential Units

Dear Minister Clark,

Please accept the below from the Greater Ottawa Home Builders' Association (GOHBA) and its members as a submission to the government's request for feedback on Proposed Changes to Ontario Regulation 299/19: Additional Residential Units (ERO# 019-6197).

GOHBA is supportive of the government's efforts to address our housing affordability and supply crisis by streamlining approvals for housing and reducing barriers and costs to development, especially for infill units in existing neighbourhoods.

We are supportive of the provincial plan to remove barriers and incent these types of units by prohibiting municipalities from imposing development charges, parkland dedication or cash-in-lieu requirements.

These proposals also fulfill the Ontario Housing Affordability Task Force recommendation #5 *Permit "as of right" secondary suites, garden suites, and laneway houses province-wide.*

However, we are concerned that a municipality may circumvent the intent of these provisions by enacting zoning by-laws that frustrate the government's intent. For instance, a municipality may enact a by-law that prohibits or regulates additional entrances to the existing residential dwelling. We urge the government to take steps to clarify that a municipality may not indirectly frustrate the intent of the changes directed to providing additional residential units – up to three units on a lot.

We provide comments and additional suggestions on ERO #019-6197's specific proposals below.

Proposal: Schedule 9 of Bill 23 proposes amendments to the Planning Act to support gentle intensification in existing residential areas. The proposed changes, if passed, would, among other matters:

- Accelerate implementation of an updated “additional residential unit” framework. The proposed changes would allow, “as-of-right” (without the need to apply for a rezoning) up to 3 units per lot in many existing residential areas (i.e., up to 3 units allowed in the primary building, or up to 2 units allowed in the primary building and 1 unit allowed in an ancillary building such as a garage).
- Supersede local official plans and zoning to automatically apply province-wide to any parcel of land where residential uses are permitted in settlement areas with full municipal water and sewage services (excepting for legal non-conforming uses such as existing houses on hazard lands).
- Remove barriers and incent these types of units by prohibiting municipalities from imposing development charges, parkland dedication or cash-in-lieu requirements (Proposed Planning Act and Development Charges Act Changes: Providing Greater Cost Certainty for Municipal Development-related Charges), applying minimum unit sizes or requiring more than one parking space per unit.

As per our comments to ERO# 019-6163, GOHBA and its members welcome the ability to increase density in existing neighbourhoods as-of-right.

However, as mentioned above, there are several potential loopholes in the proposals that municipalities may distort to unreasonably restrict conversions, thereby severely limiting the ability to increase intensification in existing neighbourhoods and work against the government’s efforts.

We urge the government to address the following potential loopholes:

Permission to Tear Down & Rebuild / Additions

Municipalities may frustrate conversions by not allowing reasonable modifications / additions as-of-right to the existing structure in order to facilitate transition to a duplex or triplex (like a second kitchen or separate entranceway).

A municipality may also establish setback requirements that preclude the addition of more units to a lot in an ancillary building.

We urge the government to not be tentative, but rather take a bolder approach and allow for new construction in addition to conversions and renovations as soon as possible. Ontario has a significant portion of aging existing buildings that will reach the end of their lifespan. Limiting the construction of more units solely through the adaptive re-use of existing structures is a missed opportunity to further the goals of both residential intensification, energy efficiency, and accessibility upgrades.

Allow Flexibility in Size and Configuration of Additional Dwelling Units (ADUs)

A major benefit of ADUs is that they provide ground-oriented housing that is especially attractive to families. Relatively large ADUs are a welcome addition to the housing supply of two, three and four bedroom rental units, not often seen in apartment towers.

GOHBA welcomes confirmation in Bill 23 that municipalities cannot place minimum size limits on ADUs. However, municipalities could place an effective limit on the demand for ADUs by setting a maximum size.

Municipalities could also frustrate the intent of the legislation by limiting an ADU to one floor of a building, or even a specific floor.

People often assume and refer to ADUs as basement suites, and they can be basement suites. However, proponents who develop ADUs find that they often work better if the principal unit has a portion of the basement level and the ADU has a portion of the main floor (or even the main floor and the second floor).

This provides a more efficient use of space for a laundry room, heating and hot water equipment and a den, as well as more and better light for bedrooms on the main or upper floors. It also means that the occupant of the principal unit is not walking over the occupant of the ADU, but rather a vertical common wall exists, which makes for better neighbour-neighbour relations.

Request #1: Prevent Municipalities from restricting size and configurations of ADUs

GOHBA requests that the language below in red is added to the proposed section 16(3):

As a new ss. (3.3), enact as follows: "No official plan may contain any policy that provides for the maximum floor area of a residential unit referred to in subsection (3) to be smaller than the size of the principal residential unit on the parcel."

As a new ss. (3.4), enact as follows: "No official plan may contain any policy that provides that any residential unit referred to in subsection (3) must be limited to one floor or two floors of any building on the parcel."

The existing (3.3) would become (3.5).

Definition of Water and Sewage Services

The requirement to be connected to "full" municipal water and sewage services needs to be clarified to not include stormwater, only drinking water and wastewater.

The City of Ottawa, through its Infrastructure Master Plan, is proposing to require that all new infill development must manage its own stormwater on-site, because the city does not know if / does not believe it has the capacity to take on additional stormwater from intensification units. It is often not possible to provide on-site storm water treatment in addition to parking and/or tree obligations. The compounding effect is that additional residential units cannot be provided.

Additionally, stormwater infrastructure is a municipal responsibility and development charges are collected in order to provide the service. ***It is not appropriate to collect development charges for a municipal service that must then also be provided privately on site.***

Minimize Parking Requirements

Current provisions in the Regulation restrict municipalities to being permitted to require up to one parking space per unit. However, demanding up to three parking spaces for three units on a typical residential lot in Ottawa will make most residential intensification or conversions unviable, and works against Ottawa's desire to utilize public transit.

Ideally, there would be no parking minimums for new infill units.

Accordingly, Ontario Regulation 299/19, section 2 should be changed as follows:

1. Each residential unit ~~may shall~~ have one parking space that is provided....

Alternatively, municipalities should only be allowed to require, at most, up to one parking spot for the primary unit, or, if more than one parking space is required, then two of the parking spaces may be tandem parking spaces.

The primary focus of Ontario Regulation 299/19, as it currently reads, is the establishment of requirements and standards relating to parking for additional residential units. The Regulation provides that each additional residential unit "shall" have one parking space provided and maintained for the sole use of the occupant of the additional residential unit. This is a more onerous than the requirement under the *Planning Act* following Bill 23, which states that no official plan may contain any policy that has the effect of requiring more than one parking space to be provided and maintained in connection with an additional residential unit (clearly contemplating standards of less than 1 parking space).

The remaining provisions of the Regulation are unaffected by Bill 23. However, we recommend that they be maintained in the Regulation as they provide helpful clarification on what restrictions cannot be imposed on additional residential units, including:

- That the occupant may be the owner of the lot and/or related to the occupant of the primary unit;

- That additional residential units are permitted regardless of the date of construction of the primary residential unit; and
- That a tandem parking space is sufficient to meet a minimum parking space requirement.

Request #2: Prevent Municipalities from frustrating the intent ADU Provisions in Bill 23

GOHBA requests that the language below in red is added to the proposed section 35.1:

Restrictions for residential units

35.1(1) The authority to pass a by-law under section 34 does not include the authority to pass a by-law that prohibits or has the effect of prohibiting the use of,

- (a) two residential units in a detached house, semi-detached house or rowhouse on a parcel of urban residential land, if all buildings and structures ancillary to the detached house, semi-detached house or rowhouse cumulatively contain no more than one residential unit;
- (b) three residential units in a detached house, semi-detached house or rowhouse on a parcel of urban residential land, if no building or structure ancillary to the detached house, semi-detached house or rowhouse contains any residential units; or
- (c) one residential unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse on a parcel of urban residential land, if the detached house, semi-detached house or rowhouse contains no more than two residential units and no other building or structure ancillary to the detached house, semi-detached house or rowhouse contains any residential units.

Eliminate Exclusionary Zoning

GOHBA, along with the Ontario Home Builders' Association and its 27 local association across the province, support the elimination of restrictive single-detached or Residential first density (R1) zoning policies – commonly referred to as “exclusionary zoning”.

Now is the time to modernize local zoning ordinances. Older neighbourhoods in communities across Ontario are shrinking in population as residents age and children move out.

Introducing small-scale housing options in these established neighbourhoods would keep the population stable, and provide the customers needed for local businesses to thrive. We have solutions available to create more small-scale affordable housing, but those housing options can't be built under current zoning rules in many neighbourhoods.

Low density zoning policies make it virtually impossible to build the “missing middle” types of housing that we need in communities across Ontario to help house the significant population growth expected in the coming decades.

Duplexes, triplexes, laneway, garden suites and quadplexes are a key but often absent piece of the puzzle to solving the housing crisis. Put simply, single-detached zoning limits the ability to create gentle density in neighbourhoods. In our experience many municipalities have heavily relied on the existing single-density zoning to prevent or restrict intensification development with existing neighbourhoods rather than encouraging it.

In Ottawa’s built-up area alone:

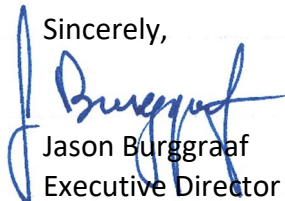
- 46% of all residential lots are zoned single-detached/Residential First Density (R1);
- Single-detached zoning isn’t spread evenly across the city – 2 per cent of downtown residential lots are zoned R1, increasing to 31 per cent in the inner urban area, 63 per cent in the outer urban area (located inside the greenbelt), and 44 per cent in the suburbs;
- Zoning for semi-detached and rowhomes account for 14% and 29% of residential zoning respectively;
- Only 10% of all residential lots allow more than 3-units per lot.

Eliminating exclusionary single-detached zoning everywhere, including suburbs, would fulfill the Ontario Housing Affordability Task Force recommendation #3 *Limit exclusionary zoning in municipalities through binding provincial action*.

Thank you for the opportunity to provide comments on this issue.

We are pleased to answer questions or provide further information as requested.

Sincerely,



Jason Burggraaf
Executive Director