



MMAH – Planning Policy Branch
777 Bay Street
Toronto, ON
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October 22, 2024

Re: Conservation Ontario's comments on the "Proposed amendment to Ontario Regulation 299/19 ADDITIONAL RESIDENTIAL UNITS, made under the Planning Act" (ERO # 019-9210)

Thank you for the opportunity to comment on the "Proposed amendment to Ontario Regulation 299/19 ADDITIONAL RESIDENTIAL UNITS, made under the Planning Act". Conservation Ontario is the network of Ontario's 36 Conservation Authorities (CAs). These comments are not intended to limit comments submitted by CAs on this proposal.

The *More Homes Built Faster Act*, 2022, introduced changes to the *Planning Act* to accelerate the implementation of the Province's additional residential unit (ARU) framework. These changes allow "as-of-right" up to three units per lot in settlement areas where existing residential uses are permitted and have full municipal water and sewage servicing. The "as-of right" permission does not apply to the limited situations where there are legal non-conforming uses, such as existing houses on hazard lands. The *Cutting Red Tape to Build More Homes Act*, 2024, expanded on these changes, introducing enhanced regulation-making authority for the Minister of Municipal Affairs and Housing (MMAH) to remove municipal zoning that may limit or restrict the development of ARUs. The Province is now proposing to amend O. Reg. 299/19 under the *Planning Act* to override certain requirements in municipal zoning by-laws to facilitate the creation of ARUs.

Conservation Ontario is pleased that the proposed regulatory amendments will only address "zoning by-law barriers", and that the ERO proposal specifies that public health and safety requirements, including those in the *Conservation Authorities Act* (i.e., permits issued under Section 28.1 of the Act), would continue to apply. Under the *CA Act*, CAs play a critical role to ensure that development is not likely to affect specified natural hazards, jeopardize public health and safety, or result in damage to property. Further, permits under the *CA Act* are applicable law in regulation made under the *Building Code Act*, and must be in place (where necessary) prior to the issuance of a municipal building permit for an ARU.

Conservation Authorities are committed to collaborating with the Province and municipal partners to increase the supply and diversity of housing, while continuing to protect public

health, safety, property, and the environment. Policy 5.2.3 of the Provincial Planning Statement (PPS), 2024 identifies areas where development and site alteration **shall not be permitted** due to their level of risk to public health and safety, and/or to damage and destruction of property. These areas include floodways, the dynamic beach hazard, and areas where safe access cannot be achieved in times of natural hazard emergencies. This policy supports the provincial interest associated with the protection of public health and safety, as identified in s. 2 of the *Planning Act*. To continue providing for the protection of people and property from the impacts of natural hazards, Conservation Ontario recommends that O. Reg. 299/19 be amended to prohibit the development of ARUs in floodways, the dynamic beach hazard, and areas where safe access cannot be achieved in times of natural hazard emergencies, consistent with policy 5.2.3 of the PPS, 2024. Providing further clarity in O. Reg. 299/19 will ensure that establishing the principle of development for ARUs remains a function of Ontario's *Planning Act* and applicable provincial policies and plans.

The proposed regulatory amendments include performance standards that override municipal zoning by-law requirements related to buildings or parcels with ARUs. A proposed standard of concern is to "allow **at least** [emphasis added] 45% lot coverage for all buildings and structures on parcels with ARUs" due to its potential to create new or exacerbate existing natural hazards. Increasing impervious surface coverage on parcels with ARUs may stress existing stormwater management infrastructure, resulting in localized flooding. This, in turn, increases the risks to public health and safety. Municipalities, often in collaboration with CAs, prepare plans and studies to identify capacity and constraints associated with stormwater management (e.g., drainage master plan, subwatershed studies, emergency management plans, etc.). To safeguard public health and safety and municipal infrastructure, it is recommended that the regulation specify that the maximum lot coverage be consistent with municipal drainage master plans, or equivalent. Maintaining appropriate natural green infrastructure (e.g., pervious surfaces) to reduce impacts associated with flooding is consistent with recommendations provided in "Ontario's Special Advisor on Flooding Report" (2019).

Thank you for the opportunity to provide comments on the "Proposed amendment to Ontario Regulation 299/19 ADDITIONAL RESIDENTIAL UNITS, made under the Planning Act" (ERO # 019-9210). Please contact the undersigned should these comments require further clarification.

Sincerely,

Nicholas Fischer

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c.c. All CA CAOs/GMs