



TOWN OF WINDSOR RECOMMENDATION REPORT

To: Members of Windsor Planning Advisory Committee

Submitted by: _____
Madelyn LeMay, Director of Planning and Development

Date: September 11, 2019

Subject: Recreational Cabins: Windsor Land Use By-law Amendment

1.0 ORIGIN

In May 2019, changes to the Building Code Act Regulations included a provision for “recreational cabins”. In a general sense, a “recreational cabin” is a single unit dwelling which is missing one or more components mandatory in the construction of a permanent dwelling, such as insulation.

This report begins the process required to amend the Windsor Land Use By-Law (WLUB) to prevent the development of “recreational cabins” throughout Windsor as seasonal dwellings are not envisioned in the present Windsor Municipal Planning Strategy (WMPS) and WLUB.

2.0 LEGISLATIVE AUTHORITY

Municipal Government Act s. 220.

3.0 RECOMMENDATION

It is recommended that WPAC recommend:

... that Council give First Reading and hold a Public Hearing to consider amending the Windsor Land Use By-law by replacing the present definition of dwelling unit with the following:

Dwelling Unit means one or more habitable rooms designed or intended to be used by one or more individuals as a separate and independent housekeeping establishment in which separate kitchen and sanitary

facilities are provided for the exclusive use of the individual or individuals for year-round occupancy as a primary residence, with a private entrance from outside of the building or from a common hallway or stairway inside the building and excluding a recreational cabin as defined in the Nova Scotia Building Code Regulations.

4.0 DISCUSSION and DOCUMENT REVIEW

4.1 Need for Amendment

Changes to the Building Code Act Regulations which took effect May 1, 2019, included a provision for “recreational cabins”. These changes mean that anywhere a development permit can be issued in Windsor for a single unit dwelling, a building permit could then be issued for a “recreational cabin” since there is no material in the WLUB regulating seasonal or recreational dwellings. Although this may be considered acceptable by the developer or individual building the structure, as it will reduce costs and may speed up the development and building process, subsequent owners may have no idea that the structure does not meet all of the Building Code requirements for a single unit dwelling. The costs of providing the “missing” element(s) following completion of construction is generally greater than including them in the initial construction.

A recreational cabin is defined in the Building Code Act Regulations as: a *building with a residential occupancy which meets all of the following:*

- (a) it is used or intended to be used as a single dwelling unit;*
- (b) it is principally used for a seasonal recreational activity;*
- (c) it is two storeys in building height or less; and*
- (d) it is not used as a permanent residence.*

The Regulations also specify that “*Except as provided in Sentence (5), thermal insulation, vapour barrier, air barrier construction, interior finishes, plumbing, heating, mechanical ventilation, air-conditioning and electrical facilities need not be provided in a recreational cabin, but where any of these are provided, they shall comply with the requirements of this Part.*” (n.b.: Sentence 5 covers only heating and air conditioning.)

The WLUB does not list any type of seasonal dwelling. The current Windsor definition of dwelling unit is: “*Dwelling Unit means one or more habitable rooms designed or intended to be used by one or more individuals as a separate and independent housekeeping place in which separate kitchen and sanitary facilities are provided for the exclusive use of such individual or individuals, with a private entrance from outside of the building or from a common hallway or stairway inside*

the building;.” This definition does not require an intention of permanent occupancy.

As noted above, as a result of the changes to the Building Code Regulations a development permit can be issued for a single unit dwelling under the WLUB with a building permit then being issued for a recreational cabin.

In order to ensure that single unit dwellings in Windsor meet the requirements for a permanent residence rather than for a recreational cabin, an amendment is needed to the WLUB. Clarification can be achieved by an amendment to the definition of dwelling unit in the WLUB as follows and shown in Appendix B (changes shown in blue):

Dwelling Unit means one or more habitable rooms designed or intended to be used by one or more individuals as a separate and independent housekeeping ~~place~~ establishment in which separate kitchen and sanitary facilities are provided for the exclusive use of ~~such the~~ individual or individuals ~~for year-round occupancy as a primary residence,~~ with a private entrance from outside of the building or from a common hallway or stairway inside the building ~~and excludes a “recreational cabin” as defined in the Nova Scotia Building Code Regulations.~~

4.2 WMPS Criteria

As is usual, the WMPS does not provide background for the definitions contained in the WLUB. The definition of dwelling unit was included in the Windsor planning documents prior to the recent changes to the Building Code Act Regulations.

Neither the WMPS nor the WLUB contain material regarding seasonal dwellings or “recreational cabins”. There is no discussion of the advisability or desirability of having such uses in Windsor. Should PAC want to consider such uses in specific zones, this should be done at a later time as part of an overall review of both the WMPS and WLUB.

The criteria Council must consider when amending the WLUB are established in Policy 16.3.1 (Appendix A). None are relevant to the amendment of this WLUB definition.

5.0 **CONCLUSION**

Although the proposed amendment has been considered within the context of the policies of the WMPS, no criteria relate directly to the amendment of a definition in the WLUB.

The proposed amendment is consistent with the overall intent, objectives and policies of the WMPS. As a result, it is reasonable to consider approving the change in the WLUB definition of “dwelling unit”.

6.0 OPTIONS

WPAC may recommend that Council:

- hold First Reading and authorize a Public Hearing to approve the WLUB amendment as drafted or as specifically revised by direction of WPAC;
- provide alternative direction such as requesting further information on a specific topic.

7.0 APPENDICIES

Appendix A

WMPS Policy 16.3.1 and 16.3.2

Appendix B

Proposed Amendment: Definition of Dwelling Unit

APPENDIX A

Taken from the Municipal Planning Strategy July 2019

Policy 16.3.1

In considering development agreements and amendments to the Town of Windsor Land Use By-law, in addition to the criteria set out in various policies of this Strategy, Council shall consider:

- (a) whether the proposal is considered premature or inappropriate in terms of:
 - (i) the adequacy of sewer and water services;
 - (ii) the adequacy of school facilities;
 - (iii) the adequacy of fire protection;
 - (iv) the adequacy of road networks adjacent to, or leading to the development; and
 - (v) the financial capacity of the Town to absorb any costs relating to the development.
- (b) the suitability with any aspect relative to the movement of auto, rail and pedestrian traffic;
- (c) the adequacy of the dimensions and shape of the lot for the intended use;
- (d) the pattern of development which the proposal might create;
- (e) the suitability of the area in terms of steepness of grade, soil and geological conditions, location of water courses, marshes or bogs and susceptibility of flooding;
- (f) whether the proposal meets the requirements of the appropriate provincial or federal agencies as well as whether it conforms to all other relevant municipal by-laws and regulations; and
- (g) any other matter required by relevant policies of this Strategy.

Policy 16.3.2

It shall be the policy of Council that, where considered necessary, a detailed site plan and architectural drawings shall be submitted by the developer as a component of the rezoning or development agreement application.

APPENDIX B

Proposed Amendment: Definition of Dwelling Unit

Amendment to clarify the definition of dwelling unit.

1. In Part 31 of the Windsor Land Use By-law, delete the existing definition of “Dwelling Unit” and replace it with the following definition of Dwelling Unit:

Dwelling Unit means one or more habitable rooms designed or intended to be used by one or more individuals as a separate and independent housekeeping establishment in which separate kitchen and sanitary facilities are provided for the exclusive use of the individual or individuals for year-round occupancy as a primary residence, with a private entrance from outside of the building or from a common hallway or stairway inside the building and excludes a recreational cabin as defined in the Nova Scotia Building Code Regulations.