

THE CORPORATION OF THE CITY OF COURTENAY

NOTICE OF COMMITTEE OF THE WHOLE MEETING

DATE: Monday, March 31, 2014
PLACE: City Hall Council Chambers
TIME: 4:00 p.m.

AGENDA

1.00 STAFF REPORTS/PRESENTATIONS

Pg#

1 1. Secondary Suites Policy Discussion

2.00 ADJOURNMENT



THE CORPORATION OF THE CITY OF COURTENAY

STAFF REPORT TO COMMITTEE OF THE WHOLE

To: Council
From: Chief Administrative Officer
Subject: Secondary Suites Policy Discussion

File No.: 3030-01
Date: March 31, 2014

PURPOSE:

The purpose of this report is to seek direction from Committee of the Whole with respect to where secondary suites are permitted and the preferred approach to the enforcement of illegal suites.

CAO RECOMMENDATIONS:

That based on the March 31st, 2014 staff report "Secondary Suites Policy Discussion" Council provide further direction to staff regarding where secondary suites should be permitted and the preferred approach to the enforcement of illegal suites.

Respectfully submitted,

David Allen
Chief Administrative Officer

BACKGROUND:

At the January 6th 2014 Council Meeting, Council supported the recommendation "that Council give further direction to staff regarding where secondary suites should be allowed as well as how to proceed with the enforcement of illegal suites in the city". This report is meant to facilitate this discussion by describing the current situation with respect to secondary suites in Courtenay and outline a number of alternative approaches Council may wish to consider.

DISCUSSION:

What is a Secondary Suite?

In general terms, 'secondary suite' refers to an additional dwelling unit within a single family home that is clearly subordinate to the principal dwelling unit. The BC Building Code has specific criteria that must be satisfied in order for a dwelling unit to be considered as a 'secondary suite' and therefore to qualify for less stringent building code requirements than for typical multi-family dwellings. The Building Code criteria for secondary suites are as follows:

- (a) a total floor space of not exceeding 90 m² in area;
- (b) floor space of the suites must be less than 40% of the habitable floor space of the building;
- (c) located within a building of residential occupancy containing only one other dwelling unit; and

(d) located in and part of a building which is a single real estate entity (not strata-titled).

Many municipalities, including the City of Courtenay, have adopted these criteria into their own definitions of secondary suites. Within the City of Courtenay, a secondary suite is a 'dwelling unit' that meets the Building Code criteria listed above, where 'dwelling unit' is defined as

*"one or more inter-connected room designed, occupied or intended for occupancy by a single **household** and containing living, sleeping and sanitary facilities and not more than one set of kitchen facilities and for the purposes of this definition electrical wiring and plumbing installations designed or intended to be connected to cooking or dishwashing equipment constitute "kitchen facilities" whether or not they are so connected",*

and where 'household' is defined as *"an individual; two or more persons related by blood, marriage, adoption or foster parenthood; or not more than (5) unrelated persons."*

This definition of secondary suites presents challenges to enforcement of illegal suites as it can make it difficult to determine what constitutes a secondary suite and what actions are required to decommission a suite. This definition can also have unintended restrictions on the use of a property such as an at-home day care seeking to have a second kitchen in the day care portion of the home.

The Role of Secondary Suites in Our Community

Secondary suites are an important part of the rental housing market in BC. They help to meet the demand for affordable housing by offering unsubsidized rental accommodations which can reduce the pressure on the need for non-market and government subsidized forms of housing. With fewer purpose built rental apartment buildings being constructed, secondary suites have become widespread in many communities with estimates that they comprise as much as 20% to 35% of the rental housing stock¹.

Factors contributing to the demand for secondary suites in Courtenay include high housing costs relative to income in the Comox Valley especially for young families, an aging population with many individuals looking for ways to stay in their homes longer, and low vacancy rates for traditional rental apartments.

Secondary suites increase choice in the rental market as suites are often more dispersed throughout the community than purpose built rental stock, are often newer construction, and are generally ground-oriented providing suitable accommodation for those with mobility challenges, families with children or those with pets. Having suites available in different areas of the community can provide an affordable housing option near a tenant's place of work or their children's school, and can assist households with homeownership goals by offsetting mortgage costs.

Although secondary suites help to increase affordable housing options for renters and home owners, they can also raise a number of concerns. Common issues that are raised by local residents include on-street parking congestion, loss of privacy for adjacent properties, changes to the character of the neighbourhood, absentee landlords, changes to property values, fairness in terms of payment for increased use of municipal services, and safety issues related to illegal suites.

Secondary suites are found in communities across BC and similar to other municipalities, the City of Courtenay faces challenges in creating a balanced approach that recognizes the contribution of secondary suites to affordable housing as well as their impact on neighbourhoods. In managing secondary suites, key objectives include:

¹ http://www.tenants.bc.ca/ckfinder/userfiles/files/Secondary%20Suites_A%20Call%20for%20Safe%20and%20Legal%20Housing.pdf, Secondary Suites: A call for safe and legal housing.
<http://www.toolkit.bc.ca/diverse-zoning-strategies-diverse-communities#housing%20strategies>, BC Climate Action Toolkit

- Increasing the safety of the units;
- Recognizing and protecting affordable housing options in the community;
- Minimizing neighbourhood impacts; and
- Avoiding significant costs to homeowner but ensuring that properties with secondary suites are contributing equitably towards the use of municipal services.

Existing Policy Related to Secondary Suites

Council has long recognized the value of secondary suites in providing affordable housing. Secondary suites have been a permitted use within the Residential Two zone since 1995. In addition to the City's current zoning bylaw, Council endorsed documents which currently support the creation of secondary suites include the Official Community Plan (OCP), the Affordable Housing Policy, Local Area Plans and the Regional Growth Strategy (RGS). These documents encourage the expansion of secondary suites throughout the community as a means of providing affordable housing and as a way of addressing climate change goals through infill development; however, this is subject to the rezoning process. In accordance with these policies, the City has taken steps to encourage the legalization of secondary suites by reducing rezoning fees from \$3,000 to \$500 and by prioritizing secondary suite rezoning applications.

While there is policy support to allow secondary suites in single-family residences, this requires a Zoning amendment. All rezoning applications are subject to the requirements of the *Local Government Act* which mandates that property owners and tenants within a specified distance of the subject property receive notification of the proposed changes to use and/or density and are given the opportunity to respond either in writing or in person at a public hearing. This legislated process can, and has resulted in the criticism by local residents that the rezoning process "pits neighbour against neighbour". While the City has no authority to change the legislative requirements, effort has been made to reduce neighbourhood conflict by requiring applicants to hold a public information meeting in advance of proceeding to Council. The intent is to identify neighbourhood concerns early in the application process, and where possible, for the applicant to address these concerns prior to public hearing.

The Current Status of Secondary Suites in Courtenay

There are currently more than 2,760 properties that are zoned to permit secondary suites in Courtenay. This represents nearly 40% of all residential lots however zones that allow secondary suites are largely concentrated on the west side of Courtenay as shown in the attached map. The City continues to receive applications to allow secondary suites in single-family zones and has processed 20 site-specific rezoning applications in the past five years, 15 of which were approved. The City has also been successful in encouraging secondary suites in new development. The Buckstone development in south Courtenay and the second phase of the Cascara Crescent development both allow secondary suites as a permitted use.

In addition to having the correct zoning in place, secondary suites have to meet the requirements of the definitions described above, provide one additional off-street parking space for use by the tenant(s) of the suite, and obtain a building permit to ensure that the suite meets building code requirements.

City records indicate that there are currently 204 legal secondary suites. There are likely a greater number of secondary suites in existence based on the experiences in other communities, anecdotal evidence from real estate listings and classified ads for rental accommodations, and the City's experience with enforcement. The City's current approach to enforcement of illegal secondary suites is largely complaint driven. Once the existence of an illegal suite has been verified, the property owner has the option to make the suite legal or to decommission the suite. Non-compliance results in a Notice being filed on the title of

the property alerting mortgage companies and prospective buyers that the suite is not in compliance with City or Building Code regulations.

Council has indicated concerns with the current practices related to secondary suites. The remainder of this report is meant to initiate further discussion on secondary suites regulation by highlighting some of the approaches that other municipalities are taking.

Key Consideration 1: Where Should Secondary Suites Be Allowed?

Municipalities generally take one of three approaches with respect to where they allow secondary suites. Some permit secondary suites in all single-family dwellings, others limit secondary suites to specific areas of the city or specific zones, and others primarily allow secondary suites on a case-by-case basis through a site specific rezoning.

Allowing secondary suites as a use in all single-family zones supports the geographic dispersion across the community and could assist in ensuring that there are affordable housing options in all areas of the city. This approach also removes the need for site-specific rezoning, a process that is often criticized for “pitting neighbour against neighbour”. Eliminating the need to rezone a property may also encourage the legalization of suites thereby ensuring that the suites are safe and that they are paying for the increased demand on municipal services. By allowing secondary suites outright, municipalities have less control over the impact that they may have in a neighbourhood. To counter this, some municipalities have added additional requirements for secondary suites in order to minimize the impact on surrounding properties. Allowing secondary suites in all single residential zones is the approach that has been adopted by majority of municipalities in recent years including Nanaimo, Qualicum, and Comox.

Another approach is to allow secondary suites in specific areas or zones. Often this is done in connection to a local area plan or neighbourhood planning process. Other municipalities have used this approach as a means of piloting secondary suites prior to allowing secondary suites throughout the community. The District of Saanich has adopted this approach and now allows secondary suites within a defined area. The intent is to study the issues associated with secondary suites and to facilitate more in-depth discussion with residents prior to expanding the secondary suites program to other areas. Advantages of allowing secondary suites in specific areas or zones are that it provides a greater level of neighbourhood input and it allows policy to be adapted to a specific neighbourhood context. However, this approach may perpetuate the existence of illegal suites in areas of the community which do not have zoning that allows secondary suites raising concerns related to safety and equity, and it could result in some areas having fewer affordable housing options.

A third approach is to permit secondary suites only through site-specific rezoning. This approach is one that many municipalities first adopted when initially considering secondary suites. This approach provides more discretion on the location of the suite and other factors and allows current residents in the area to provide input. However, as many municipalities have experienced, secondary suites exist whether the zoning allows them or not. This approach may discourage the legalization of secondary suites by requiring a property to undergo a zoning amendment and this rezoning process can polarize neighbourhoods. Of the three approaches presented, it also provides the least amount of certainty for applicants and involves a significant amount of staff time in administering applications.

Courtenay uses a combination of area specific and site specific approaches. Secondary suites are a permitted use in several residential zones, most notably the R-2 zone which covers much of west Courtenay. Outside of these zones, a site-specific rezoning is required to permit a secondary suite within a single-family dwelling.

Potential Secondary Suite Requirements

In addition to the BC Building Code requirements noted above, some municipalities have requirements related to parking, owner occupancy, registration and licensing, and the location of suites within the building in order to minimize the impact of secondary suites on the surrounding neighbourhood.

Parking

In order to address concerns related to the availability of on-street parking, most municipalities require one off-street parking space dedicated for the secondary suite in addition to parking required for the single-residential dwelling. This often results in provision of at least three parking spaces per lot. Accommodating three parking spaces on a lot can result in a substantial portion of the front yard being paved which generates more stormwater and has a significant impact on the character of a neighbourhood. This has led some municipalities to require that the additional parking space be located in the side or rear yard to reduce visibility, and to require permeable parking surfaces for the suite. Alternatively, a few municipalities have decided not to require additional off-street parking to allow for more greenspace.

Owner Occupancy

Several municipalities require that property owners reside in either the secondary suite or the principal residence. Owner occupancy requirements are based on the assumption that the property owner will be available to maintain and manage the property therefore the suite is less likely to become a nuisance to the neighbours. Municipalities that have owner occupancy requirements typically require property owners to submit a statutory declaration confirming that they reside on the property. Another concern with owner occupancy requirements is that it can be difficult to enforce particularly after a property is sold as the new property owner may not be aware of the owner-occupancy restrictions. Challenges with the administration, practicality and enforcement have led some municipalities to abandon owner-occupancy requirements.

Licensing and Registration of Suites

As an alternative to owner-occupancy requirements, some municipalities are pursuing registration or business licence requirements for secondary suites. The idea is that a business licence for a secondary suite is issued subject to specific standards and if the standards are not being met, the license is revoked. In some jurisdictions, the licensing system is being used in conjunction with owner occupancy requirements to assist with long-term enforcement.

Location of Suites within the Building

Secondary suites are generally considered to be the least intrusive option for residential intensification within existing neighbourhoods and are often referred to as "hidden density". In addition to the building code restrictions on suite size, some municipalities have restrictions on where the suite can be located in relation to the principal dwelling unit. For example some municipalities require the suite to be wholly below the principal unit, some allow it to be above or below the principal unit but not beside, and others restrict the location of the entrance to the secondary suite. The intent of these provisions is to ensure that the secondary suite remains "hidden" and does not significantly alter the character of the neighbourhood.

Maximum Number of Bedrooms

The basic premise of secondary suites is that they are subordinate to the principal dwelling unit as reflected in the area restrictions in the BC Building Code. A few municipalities further specify a maximum number of bedrooms to limit the number of occupants within a suite based on the idea that a greater number of occupants, particularly unrelated persons, will generate more demand for parking and higher activity levels. However, imposing a limit on the number of bedrooms could make a suite less desirable for families with more than one child.

Minimum Lot Size

Recognizing that it is more difficult to accommodate secondary suites on smaller lots, particularly with increased parking requirements, there are a few municipalities that restrict secondary suites based on lot size. For example, the City of Nanaimo requires a minimum lot size of 370 m² for properties containing a secondary suite.

Key Consideration 2: What is the desired approach to enforcement?

Current Practice

Enforcement of secondary suites is currently done once an unauthorized suite is brought to the City's attention. This is primarily a complaint-driven process; however, unauthorized secondary suites are also discovered through inquiries related to garbage pick-up, public inquiries related to real estate property listings, and requests for separate addresses for the suite and principal dwelling.

Once the presence of an unauthorized suite is confirmed, property owners are notified and are given the option to bring the suite into compliance with zoning and building regulations or to decommission the suite. Bringing the suite into compliance may require a zoning amendment to allow secondary suites as a permitted use on the property. Once the rezoning is approved, or if the property is already zoned to allow a suite, the property owner must obtain a building permit to ensure that it meets Building Code requirements. If the property owner chooses or is required to decommission the suite, the tenants must be evicted and a building permit must be obtained.

Non-compliance results in the City registering a Notice on the property title explaining that there is an unauthorized suite on the property that is not in compliance with City or Building Code regulations. To date the City has not pursued court action due to significant time and cost implications.

Challenges with the current approach to enforcement include clarity on deciding what is or is not a suite using the current definitions, what actions are required for decommissioning illegal suites, and the amount resources that Council wishes to commit to the investigation and enforcement of illegal suites.

General Approaches to Enforcement

The enforcement of unauthorized secondary suites ranges from more passive approaches that focus primarily on complaints to more active approaches aimed at identifying illegal suites. In deciding how to pursue the enforcement of unauthorized suites, municipalities are considering many factors including issues related to the safety of the illegal suites, community expectations related to enforcement of regulations, impact on the current tenants, protecting affordable housing stock, and implications on staff time and resources.

In most municipalities, enforcement is done solely on a complaint-basis. This approach recognizes the benefits provided by secondary suites and it also offers a means of addressing the impact that a particular suite may be having on a neighbourhood. However, the legalization of suites is quite slow under this approach which could result in unresolved safety issues leaving tenants at risk and raises the concern that suites might not be paying their fair share in relation to municipal services and utilities. Recognizing the current resource levels of most municipalities, a complaint-driven approach to enforcement is the most manageable.

In other municipalities enforcement occurs whenever an illegal suite is brought to the City's attention. This is the approach currently followed by the City of Courtenay. This approach results in a greater number of suites being legalized but also requires significantly more staff time in terms of investigation and enforcement.

A more proactive enforcement alternative would be to work with real estate agents and BC Assessment on the disclosure of non-authorized property uses, and reviewing property sales listings and rental accommodation ads in local newspapers and popular websites. Advantages to this approach are that over time more suites would be legalized ensuring that the suites are safe to occupy and that the municipality is recovering costs associated from the increased use of services. This approach has a greater impact on tenants and homeowners and has a significant impact on staff time and resources. Very few municipalities currently take an active approach to enforcement. Municipalities that have taken a more active approach to enforcement sometimes accompany this shift in practice with policy to waive building permit fees for a set transition time, typically one year, in order to encourage property owners to legalize their secondary suites.

Utility Fees for Secondary Suites

Secondary suites place an additional demand on municipal services. Accordingly, properties with legal secondary suites are currently charged a second utility fee for sewer, water and garbage collection. In 2013 this fee was just under \$700. Properties with illegal suites are not currently charged a second utility fee.

Several municipalities charge a second flat rate fee for properties with a secondary suite however, it has been demonstrated that homes with secondary suites use approximately 40% more services than homes without suites². This has resulted in some municipalities reducing the utility fees for the secondary suite for unmetered services.

Other municipalities have taken the approach that all secondary suites, whether authorized or not, are charged a second utility fee to ensure that the municipality is recovering the costs associated with providing these services. In this situation, there is typically a mechanism to advise the City if the suite is no longer active and have the fees removed through statutory declaration and/or building inspection. Pemberton takes an alternative approach charging a second utility fee for all properties with zoning that allows a suite and requires property owners without an active suite to submit a declaration to this effect in order to pay a single utility charge.

Next Steps

This report is meant to initiate discussion on secondary suites and is not meant to be an in-depth policy review. Staff will return with more detailed analysis and policy options for Council's consideration if so directed by Council.

² <http://wcel.org/secondary-suites>, Secondary Suites

FINANCIAL IMPLICATIONS:

As this is a discussion paper there are no financial implications at this point in time. Dependant on the direction of Council there could be future implications on revenues from utility fees, development cost charges, rezoning applications, and building permit fees.

ADMINISTRATIVE IMPLICATIONS:

Administrative implications are dependent on the direction of Council. To date Staff has spent a total of approximately 40 to 50 hours preparing this report.

STRATEGIC PLAN REFERENCE:

Affordable Housing is listed as a high priority item in the 'City of Courtenay Strategic Priorities Report' including the action to "establish a policy regarding the City's role in ensuring a diversity of housing to meet community needs". A tentative deadline of September 2014 has been set for this action.

OFFICIAL COMMUNITY PLAN REFERENCE:

Refer to policy discussion above.

REGIONAL GROWTH STRATEGY REFERENCE:

One of the goals of the Comox Valley Regional Growth Strategy is to ensure a diversity of housing options to meet evolving demographics and needs, and to encourage the provision of alternative housing forms that provide housing at lower costs and with lower environmental impacts.

CITIZEN/PUBLIC ENGAGEMENT:

None to date as this is report is meant to initiate discussion. Should Council direct staff to prepare a new secondary suite policy, it is anticipated that this will involve public engagement.

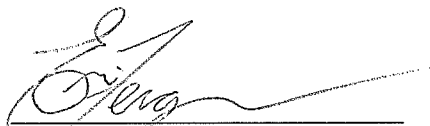
OPTIONS:

OPTION 1: Direct staff to prepare a secondary suite policy based on current practice to provide clarity around where secondary suites are permitted and the approach to enforcement.

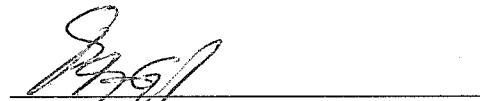
OPTION 2: Direct staff to develop a secondary suite policy based on Council's direction.

OPTION 3: Revisit secondary suites policy as part of a larger review of the Affordable Housing Policy.

Prepared by:



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Properties That Allow Secondary Suites

