



CITY OF VANCOUVER

ADMINISTRATIVE REPORT

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TO: Vancouver City Council

FROM: Director of the Housing Centre, in consultation with the Directors of City Plans, Development Services and Legal Services, and the Chief Building Official

SUBJECT: Secondary Suites: Various Amendments to the Zoning and Development By-law, Building, Parking and Zoning and Development Fee By-laws

RECOMMENDATION

- A. THAT the Director of City Plans be instructed to make application to amend Zoning and Development By-law No. 3575 with changes as set out in Appendix A, to further facilitate the legalization of secondary suites, and that the application be referred to a Public Hearing;

FURTHER THAT the Director of Legal Services be instructed to prepare the necessary amending by-law, generally in accordance with Appendix A, for consideration at the Public Hearing.

- B. THAT if Council enacts the zoning amendments contemplated in Recommendation A, the Director of Legal Services be instructed to bring forward for approval all necessary amendments, generally in accordance with Appendix B, to the Building, Parking and Zoning and Development Fee By-laws.

GENERAL MANAGER'S COMMENTS

The General Manager of Community Services RECOMMENDS approval of the foregoing.

COUNCIL POLICY

Council policy, as reflected in recent Zoning and Development By-law amendments, is to remove barriers that hinder the legalization of secondary suites, and at the same time extend the opportunity to provide secondary suites in all residential zoning districts.

SUMMARY AND PURPOSE

At a Public Hearing on March 2, 2004, regarding secondary suites, members of Council indicated an interest in providing a relaxation of the internal access requirement for existing buildings because of the costs that are usually involved with re-establishing an internal staircase. Staff have investigated this possibility and concluded that, under current Zoning and Development By-law regulations, the Director of Planning cannot relax the requirement.

Staff have further reviewed the requirements for internal access and determined that the requirement is not a life and safety consideration and therefore recommend that the requirement now be eliminated. This report outlines modification of the Zoning and Development By-law to put this change into effect.

Other changes to the Zoning and Development By-law are brought forward which would also ease the approval of secondary suites, should Council wish to pursue them:

- Adjustments to the requirements for living accommodation below finished grade;
- Clarification of minimum site area requirements;
- Extension of external design regulations to buildings with secondary suites; and
- Other consequential amendments to the Zoning and Development By-law related to changes enacted in April 2004.

Minor adjustments will also be needed to related by-laws to recognize the new use term and ensure consistency.

BACKGROUND

As part of a number of changes to provide for the legalization of secondary suites in residentially-zoned areas of the city, the following definition was adopted:

One-family Dwelling with Secondary Suite, which means a building containing only two dwelling units, of which the secondary suite is smaller than the principal residence, with internal access between the two units, but which does not include a two-family dwelling, multiple conversion dwelling, or infill one-family dwelling which means a building containing only one dwelling unit.

The foregoing definition and all of the associated changes pertaining to secondary suites were considered by Council at the Public Hearing held on March 2 and 9, which were subsequently enacted on April 20, 2004.

During the course of the Public Hearing, it became evident that members of Council wished to provide for a relaxation of the internal access requirement for existing buildings where the internal access stairs had been previously removed. Such a relaxation would generally follow

the overall intent in introducing changes to reduce the barriers for individual owners wishing to make existing suites legal. Staff indicated at the Public Hearing and in a memo to Council that the relaxation would be possible. On further review this has proven not to be the case because the requirement is contained in the definition.

In the course of processing applications for new suites, since the changes came into being at the end of April 2004, other issues have been identified.

DISCUSSION

Suite Activity Since April 2004 By-law Amendments: Following enactment of the by-law changes in April 2004, interest in suites has increased significantly, notably in respect to the legalization of existing suites. Requests for special inspections and actual applications related to existing buildings have almost doubled, as shown in the following table.

Table 1: Secondary Suite Activity

Application Activity	2003 ¹	2004 ²
Requests for special inspections (existing one-family dwellings)	71	150
Actual development/building permits (existing dwellings)	57	104
Permits for new one-family dwellings	775	581
Permits for new one-family dwellings with suites	15	14

¹ for the full year of 2003

² for the period April - December 2004 when suites were possible city-wide

The interest in new purpose-built one-family dwellings with a legal secondary suite continues to be low and it is clear to processing staff that illegal installation is still generally contemplated as the preferred course of action (see later discussion under internal access requirement). It is unclear as to whether the covenant prohibiting stratification or other reasons, such as income tax concerns, continue to deter legalization. Staff will continue to review options for addressing this issue.

However, in processing applications for both new and existing suites, a number of considerations have been identified that if changed would further facilitate approvals for suites.

Internal Access Requirement: The Chief Building Official has reviewed the continued requirement for internal access between the principal dwelling unit and the secondary suite and concludes that it is not a life and safety consideration. Therefore, staff recommend that the requirement be eliminated in the case of both existing and new construction. To permit approval of suites in buildings without internal connections, staff propose revising the definition of one family dwelling with secondary suite by eliminating the bold italicized wording, as follows:

One-family Dwelling with Secondary Suite, which means a building containing only two dwelling units, of which the secondary suite is smaller than the principal residence, ~~with internal access between the two units~~, but which does not include a two-family dwelling, multiple conversion dwelling, or infill one-family dwelling which means a building containing only one dwelling unit.

This change is included in Appendix A, along with adjustment of the same definition in the Building By-law in Appendix B. As internal access between the dwelling units will no longer be required, relaxations will not be needed.

Elimination of the requirement for internal access may serve as a decision point for the speculative small builder who will have the choice of installing, or not installing, internal stairways:

- For new one-family dwellings, under section 10.21.5 of the Zoning and Development By-law, access is required to all rooms within a dwelling and therefore internal access between floors is required; applications for new one-family dwellings without internal access will not be accepted, however, the applicant will have the choice of adding the access or amending the application to a one-family dwelling with secondary suite; or
- For new one-family dwellings with secondary suites, under the proposed change, no internal access will be required. Elimination of the internal access explicitly declares that the lower floor will be utilized as a separate suite, and necessary building code requirements will be applied.

The decision to eliminate the staircase simplifies construction, reduces costs through the elimination of the staircase, openings, etc., and creates additional usable floor space in both units. The cost increases are the covenant for non-stratification and the additional building code requirements which are not significant, given that sprinklers are already a requirement.

It is likely that a portion of the 600 new one-family dwellings, for which permits have been issued since April 2004, have had one *or more* suites added illegally after final inspections, despite the changes which allow legalization of suites. In the future, builders of these houses will necessarily maintain internal access as required under the Zoning By-law (as noted above) to give the appearance that the houses will be occupied as one-family dwellings, at least through the permitting and construction stages. The year-end inspection by the Property Use Inspection Branch will begin to assess the extent of this activity when instituted later this year. Staff intend to track specific examples and report back to Council on how the City may more effectively respond should illegal suites be found in many new houses.

The Director of Development Services notes that should the internal connection requirement between a one-family dwelling and its secondary suite be eliminated, there will be little to differentiate a "one-family dwelling with secondary suite" from a "two-family dwelling". The only distinctions will be the restrictions on unit size, a single front door and the prohibition on strata titling. In all other respects, the "RS" one-family zoning districts will be the same as "RT" two-family dwelling districts.

Living Accommodation Below Finished Grade: Section 10.15 of the Zoning and Development By-law regulates the depth at which living accommodation can occur below finished grade. "Living accommodation" typically refers to areas of a dwelling unit such as bedrooms, dining

and living rooms. The current requirement is 0.8 m (2.62 ft.), which can be relaxed to 1.5 m (4.92 ft.).

The requirement is proving to be difficult, particularly where a site is sloped and a secondary suite in the basement is proposed. In the case of a sloped site (slope is from front to back), a basement floor area may be at grade at the rear of a house but because of the slope some of the habitable rooms may be more than 1.5 m below grade towards the front of the house. These rear rooms do not meet the requirement for living accommodation. Consequently the basement/cellar area may not be permitted to be used as a suite even though such a suite would have more than adequate light and overall liveability. The floor area remains, however, as "cellar" floor area and is included as part of the floor space ratio calculation.

Staff reviewed the requirements and recommend that the Director of Planning be allowed to grant a further relaxation, to 1.83 m (effectively 6 feet), which would apply only to one-family dwellings and one-family dwellings with secondary suites. Staff are not recommending that this new requirement be limited to sloped sites only, but that it be provided as a general clause applicable to those uses only. The 1.83 metres would allow for 0.457 m (1.5 ft.) of window space above grade in cases involving ceiling heights of 2.44 m (8 ft.), sufficient to provide adequate natural light to a bedroom. The necessary change is contained in Appendix A. Problems may continue to occur for existing buildings involving relaxations of the floor to ceiling height below 2.44 m if insufficient natural light can be created.

This change provides more latitude in the elevation of the basement floor level. If this proves insufficient in dealing with the problem, a further amendment to increase the latitude in the elevation of the basement ceiling level may be required.

Site Area Requirements: One-family dwellings with secondary suites were extended to all residential zoning districts of the city. Many of those residential zoning districts contain minimum site area requirements for residential development, such as one-family, two-family and multiple dwelling development. Most of these zones also provide for a relaxation of that minimum site area requirement in order to give more attention to the design and massing on these smaller sites. The wording is not clear as to whether the minimum site area relaxation applies in the case of the approval of a one-family dwelling with secondary suite.

Given that the intent of the secondary suite initiative was to work within the character of existing housing fabric, staff recommend that the Zoning and Development By-law be clarified to extend the same relaxation consideration given to one-family houses without suites to one-family dwellings with suites. Changes to the various 'R' schedules are detailed in Appendix A.

External Design Regulation: Five of the existing nine RS zoning district schedules include external design regulations. Of particular note is the regulation which provides for a single 'separate and distinct front entrance' for one-family dwellings. In April 2004, the RS-1 and RS-5 schedules were amended to extend this regulation to a one-family dwelling with secondary suite. However, this amendment was not extended to RS-3 and RS-3A, RS-6 and RS-7S. As with the previous section on site area requirements, to ensure that development is consistent with the character of the area, staff recommend that the single front door regulation be applied in the RS-3 and RS-3A, RS-6 and RS-7S areas.

Other Consequential Amendments: There are a few adjustments needed to ensure that all elements of the Zoning and Development By-law are consistent:

- *RS-3 and RS-3A and RS-6 By-laws:* A number of very minor adjustments are needed to the RS-3 and RS-3A, and RS-6 zoning schedules which were not covered as part of the March 2004 Public Hearing. These deal with references to uses such as two-family and multiple dwellings which are no longer relevant once “family suites” were eliminated from the Zoning and Development By-law; and
- *RS-7S:* Amongst the changes which occurred in April 2004 was the removal of the distinguishing “S” designation from RS-1S as extension of secondary suites to all R districts eliminated the need for a distinct “S” designation. A similar action should have been included for RS-7S but was not. The only difference in this instance being there is no companion RS-7 schedule, so this action is simply a re-designation of the schedule from RS-7S to RS-7;

Building, Parking and Zoning and Development Fee By-laws Changes: Consequential amendments are needed to these three by-laws to recognize the new use term, modify these by-laws to recognize the changes brought forward in this report, and provide consistency. The changes are noted in Appendix B.

CONCLUSION

This report recommends that the Director of City Plans make application for minor adjustments to the Zoning and Development By-law to eliminate the need for an internal access requirement for secondary suites in all buildings. Four other minor changes are recommended to further facilitate the approval of secondary suites.

The Director of Legal Services will bring forward changes to other related by-laws if Council should adopt the zoning by-law changes following a Public Hearing.

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Changes to Zoning and Development By-law 3575 (Secondary Suites)

A by-law will be prepared generally in accordance with the provisions listed below, subject to change and refinement prior to posting.

(1) **Secondary Suites Internal Access Requirement:**

Amend Section 2 (Definitions) by deleting the italicized words, as follows:

One-family Dwelling with Secondary Suite, which means a building containing only two dwelling units, of which the secondary suite is smaller than the principal residence, ~~*with internal access between the two units*~~, but which does not include a two-family dwelling, multiple conversion dwelling, or infill one-family dwelling which means a building containing only one dwelling unit.

(2) **Living Accommodation Below Finished Grade:**

From Section 10.15.1 (Living Accommodation Below Finished Grade), delete s.10.15.1(a), and substitute the following:

- “(a) the floor must be no more than 0.8 m below the finished grade of the adjoining ground, except that if the Director of Planning, on the advice of the Chief Building Official, is satisfied about:
- i) the provision of adequate damp proofing, lighting, ventilation, heating and secondary access, the Director of Planning may increase this dimension to 1.5 m, or
 - ii) in the case of a one-family dwelling or a one-family dwelling with secondary suite, the same considerations as (i) above and the overall relationship of the resulting living accommodation to the surrounding grade, the Director of Planning may increase this dimension to 1.83 m;”

(3) **Minimum Site Area Requirements**

To establish the same minimum site area requirements and relaxations for one-family dwelling with secondary suite as for one-family dwelling, insert the term ‘one-family dwelling with secondary suite’ in Section 4.1.1 (site area) and Section 5.1 (relaxations) in the following zoning district schedules:

RS-1A, RS-2, RS-6, RS-7S, RT-1, RT-3, RT-4/4A/4N/4AN, RT-5/5A/5N/5AN, RT-6, RT-7, RT-8, RT-9, RM-2, RM-3, RM-3A, RM-4/4N, RM-5/5A/5B/5C, RM-6, FM-1.

In the following zoning district schedules only Section 4.1.1 (site area) need be amended, as there is no respective relaxation clause:

RS-1B, RS-4, and RT-2.

(4) External Design Regulations

To establish the same external design requirements for one-family dwellings with secondary suites as for one-family dwellings, insert the term 'one-family dwelling with secondary suite' in Section 4.17 wherever the term 'one-family dwelling' appears, in the following zoning district schedules:

RS-3 and RS-3A, RS-6 and RS-7S

(5) Consequential Amendments:

RS-3 and RS-3A (3.2.DW):

- *3.2.DW Delete the uses Multiple Conversion Dwelling and Two-Family Dwelling; and*
- *Section 4.1 Delete all references to two-family dwelling and multiple conversion dwelling.*

RS-6:

- *Section 3.2.DW: delete uses Multiple Conversion Dwelling, Multiple Dwelling and Two-Family Dwelling;*
- *Section 4.17 delete all references to two-family dwelling, multiple dwelling and multiple conversion dwelling;*
- *Section 5.1 delete the following clauses "(b) two-family dwelling" and "(c) multiple conversion dwelling"*

RS-7S:

- *Rename the RS-7S schedule to RS-7, and include any consequential amendments (e.g. amendment to Schedule D - Zoning District Plan); and*
- *From the use description Multiple Conversion Dwelling, delete clause (b) and renumber clause (c) to clause (b).*

Amendments to Building, Parking and Zoning and Development Fee By-laws (Secondary Suites)

(1) Building By-law (Definitions):

Amend the definition of one-family dwelling with secondary suite to eliminate the requirement for internal access.

(2) Parking By-law (Section 4):

- *section 4.2.1.1 delete the words "or a phase-out suite";*
- *section 4.2.1.2 delete RS-1, RS-3, RS-3A RS-5 and RS-6 (multiple conversion dwelling been or being deleted as a use from these zoning districts);*
- *section 4.2.1.3 delete RS-1, RS-5 and RS-6 (multiple dwelling been or being deleted as a use from these zoning districts); and*
- *add a new section 4.2.1.2 One-Family Dwelling with Secondary Suite: A minimum of one space for every dwelling unit, except for a building constructed before April 20, 2004, a minimum of one space. Renumber the remaining sections from 4.2.1.2 to 4.2.1.11 to 4.2.1.3 to 4.2.1.12 respectively;*

(3) Zoning and Development Fee By-law

- Amend heading for Section 1, in Schedule 1 to read: "One- and Two-family Dwellings and One-family Dwellings with Secondary Suites".
- Amend Section 1 to read: "For a new one- or two-family dwelling or one-family dwelling with secondary suite and its accessory building or accessory use"
- Section 1C currently reads: "Notwithstanding Section 1, for a one-family dwelling in the RS-3, RS-3A, RS-5, RS-6 or RS-7 Districts which includes permission by the Director of Planning to increase the maximum permitted floor space ratio otherwise permitted by the District Schedule". The following amendment is needed:
 - amend to read: "Notwithstanding Section 1, for a one-family dwelling or one-family dwelling with secondary suite in the RS-3, RS-3A, RS-5, RS-6 or RS-7 Districts...."
- Add a new section 1D to read: "Notwithstanding Section 1, for a two-family dwelling in the RS-7 District which includes permission by the Director of Planning to increase the maximum permitted floor space ration otherwise permitted by the District Schedule". The fee should be \$1,730.00, the same as for 1C.

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