

As-of-Right Zoning for Secondary Suites

Date: June 13, 2018

To: Planning and Growth Management Committee

From: Chief Planner and Executive Director, City Planning

Wards: All

SUMMARY

This report presents a draft zoning framework to support the creation of secondary suites for the purpose of public consultation.

Although secondary suites have been permitted city-wide since 2000, city-wide Zoning By-law 569-2013, and former municipal zoning by-laws, only permit the creation of a secondary suite five years after the primary dwelling is constructed, and do not permit secondary suites in townhouses city-wide. The draft zoning framework responds to provincial policy changes to the *Planning Act* and the associated proposed minister's regulation to further support the creation of second units, referred to as secondary suites in the city-wide Zoning By-law and former municipal zoning by-laws.

RECOMMENDATIONS

The Chief Planner and Executive Director, City Planning recommends that the Planning and Growth Management Committee:

1. Direct that the proposed zoning framework be endorsed as the basis for public consultation.
2. Direct City Planning staff to hold an open house to consult with the public on the proposed zoning framework to support the creation of secondary suites.
3. Request the Chief Planner and Executive Director, City Planning to prepare a Final Recommendations Report and Zoning By-law Amendments in the second quarter of 2019.

FINANCIAL IMPACT

There are no financial implications resulting from this report.

DECISION HISTORY

At its meeting of July 27-30, 1999, City Council adopted amendments to all comprehensive zoning by-laws of the former municipalities to widely permit secondary suites. These amendments allowed secondary suites within detached houses and semi-detached houses in all zones across the city, and in townhouses in some residential areas, provided they met certain criteria, including the Building Code and Fire Code. This permissive approach was approved as modified on July 6, 2000, after a hearing by the Ontario Municipal Board.

At its meeting on December 5, 2017, City Council passed a motion requesting the Acting Chief Planner and Executive Director, City Planning in consultation with appropriate City staff, provincial staff, industry and community stakeholders, to report to Planning and Growth Management Committee in the second quarter of 2018 on a range of measures, including policy, regulatory and financial measures, that could provide incentives to facilitate the creation of additional secondary suites in Toronto.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.PG24.8>

On April 2, 2018, the Planning and Growth Management Committee adopted PG28.1 endorsing staff recommendations to conduct public consultations on a draft Official Plan Amendment containing policy direction for second units and report back with a final recommendation report in the second quarter of 2018.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.PG28.1>

On April 24, 2018, City Council adopted EX33.3 with amendments, the Development Charges By-law Review which included reduced development charge rates for secondary suites, applicable at the apartment rate.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.EX33.3>

At its meeting on June 6, 2018, the Toronto and East York Community Council adopted TE33.3 with amendments, which included an Official Plan and Zoning By-law Amendment to permit secondary suites in ancillary buildings adjacent to public lanes, known as laneway suites.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.TE33.3>

COMMENTS

This report is one of many in a series of reports to address the adopted motion at City Council in December 2017 to report back to Planning and Growth Management Committee with a range of measures to provide incentives to facilitate the creation of secondary suites in the city.

Policy and Legislative Framework

Recently, the Province of Ontario updated and introduced new policy and legislative changes related to second units (secondary suites).

Strong Communities through Affordable Housing Act, 2011

Bill 140, the Strong Communities through Affordable Housing Act, 2011, received Royal Assent on May 4, 2011 and came into effect on January 1, 2012. Bill 140 amended the *Planning Act* to encourage affordable housing by listing it as a provincial interest and strengthening provisions for second units. The *Planning Act* changes require municipalities to include Official Plan policies and zoning by-law provisions to permit second units in detached, semi-detached, and townhouses, as well as in ancillary buildings. The provisions permit one second unit either in a house (e.g. basement) or in an ancillary building (e.g. granny flat or laneway suite) on the same lot. The policies or regulations permitting the (first or initial) second unit on a lot are not appealable, except by the Minister of Municipal Affairs.

Bill 140 also provided authority for the Minister of Municipal Affairs to make regulations to prescribe minimum standards for second units. A notice of the proposed regulation was posted on the Environmental Bill of Rights for a 90-day consultation on March 7, 2017. The proposed regulation could, if made, set out requirements and standards for second units referred to in Subsection 16(3) of the *Planning Act* to encourage the creation of second units. The proposed regulation includes the requirement to permit second units without regard to the date of construction of the primary building; a maximum of one parking space be required per second unit; and clarifying that a second unit may be occupied by any person regardless of whether the primary unit is occupied by the owner of the property. The regulations will require minor amendments to Zoning By-law 569-2013 and all other applicable zoning by-laws to ensure that the City's zoning by-laws comply with provincial legislation.

Promoting Affordable Housing Act

Bill 7, the *Promoting Affordable Housing Act*, was given Royal Assent on December 8, 2016 and came into effect on April 12, 2018. Bill 7 amended both the *Planning Act*, 1990 and *Development Charges Act*, 1997 to further encourage the creation and legalization of second units. These changes build on previous changes made under the *Strong Communities through Affordable Housing Act*, 2011 to enhance provisions for second units. The *Planning Act* changes further emphasize the requirement for municipalities to include policies within their Official Plans and pass zoning by-laws for second units. The *Development Charges Act* changes would exempt second units in new homes from development charges. Currently, second units are only exempt in existing houses.

Long Term Affordable Housing Strategy

Ontario's Long Term Affordable Housing Strategy (LTAHS) was released in March 2016. This document identifies provincial interest in reducing the complexity and cost associated with creating second units in homes through the provision of development charge exemptions and amendments to the Building Code standards to reduce unnecessary costs to building second units. Additional information on the LTAHS can be found here: <http://www.mah.gov.on.ca/Page9181.aspx>.

Supporting Rental Housing

Secondary suites are an important component of the rental market and are often a more affordable source of housing. They contribute to meeting the affordable housing goals of the Province and the City, and are an opportunity to increase the supply and distribution of housing across the city.

According to 2016 Census data, there are approximately 1.1 million occupied private dwellings in Toronto. Approximately 53% of these dwellings are owned and 47% are rented. Canadian Mortgage and Housing Corporation data, from 2016, indicates there were approximately 402,000 detached, semi-detached and townhouse units across the city. Approximately 2,000 additional detached, semi-detached and townhouse units were created in 2017, and since 2011, an average of approximately 1,700 are built each year, which presents significant potential for additional secondary suites.

Where a secondary suite is created within a primary dwelling (e.g. a detached house, semi-detached house or townhouse), they can present a relatively lower cost housing alternative. Renters can benefit from an increase in the supply and wider range of housing choice and location. Homeowners can earn additional income through rental of a secondary suite, helping to meet the cost of home ownership. As well, objectives for intensification and the efficient use of infrastructure can be achieved by providing for the creation of additional housing supply in the existing stock and in locations where services and infrastructure already exist. Secondary suites are a compatible form of intensification within existing neighbourhoods as they provide for additional housing while respecting the physical character of a neighbourhood.

Proposed Zoning Framework

The city-wide Zoning By-law defines secondary suites, which are a type of second unit as a "self-contained living accommodation for an additional person or persons living together as a separate single housekeeping unit, in which both food preparation and sanitary facilities are provided for the exclusive use of the occupants of the suite, located in and subordinate to a **dwelling unit**."

The city-wide Zoning By-law permits secondary suites across the city in all detached houses and semi-detached houses, and in townhouses in the Residential (R) Zone, which mainly represents the former City of Toronto. The current zoning regulations require the original house to be more than five years old prior to the creation of a secondary suite. The current zoning regulations require one parking space for each secondary suite, except in the R Zone which only requires a parking space for any additional secondary suites beyond the first one. The proposed minister's regulations, under Bill 140, prescribing minimum standards for second units make it desirable and appropriate to update the Zoning By-law to ensure alignment with provincial policy.

The following zoning framework would be generally required to implement the provincial policy and provide consistent incentives for the creation of secondary suites across the city:

- Permit secondary suites in townhouse units city-wide;

- Remove the time requirement for the original house to be constructed prior to the creation of a secondary suite;
- Introduce a permitted maximum percentage of interior floor area a secondary suite may comprise to ensure it remains subordinate to the primary dwelling unit; and
- Remove the required minimum interior floor area for secondary suites in the R Zone, as this requirement is no longer necessary and controlled by the Building Code.

The above proposed zoning framework is proposed as the basis for public consultation. As the entire city is not covered by Zoning By-law 569-2013, other relevant zoning by-laws from former municipalities may also need to be amended in a similar manner to implement the provincial policy.

Related Matters

In tandem with the above proposed zoning framework, Planning and Growth Management Committee adopted PG28.1 to conduct public consultations on a draft Official Plan Amendment to clarify and expand permissions for second units within or ancillary to a detached or semi-detached house or townhouse. In addition, Toronto and East York Community Council adopted TE33.3, which included both an Official Plan Amendment and Zoning By-law Amendment to permit second units in ancillary buildings adjacent to public lanes (i.e. laneway suites), subject to criteria. If enacted, that zoning by-law amendment will not require a parking space to be provided for a laneway suite or the principal dwelling on the lot.

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SIGNATURE

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