

As-of-Right Zoning for Secondary Suites

Date: February 25, 2019

To: Planning and Housing Committee

From: Chief Planner and Executive Director, City Planning

Wards: All

SUMMARY

This report recommends the adoption of a Zoning By-law Amendment to the city-wide Zoning By-law 569-2013 to support the creation of secondary suites.

The recommended Zoning By-law Amendment (Attachment 1) reflects feedback received through public consultations, discussion with relevant City Divisions, and research across other municipalities. The Zoning By-law Amendment responds to the City Council motion to report back on a range of measures that could provide incentives to encourage the creation of secondary suites.

The recommended changes also respond to recent provincial policy changes to the *Planning Act* and the associated proposed minister's regulation, the Provincial Policy Statement, 2014, and the Growth Plan for the Greater Golden Horseshoe, 2017 to further encourage the creation of second units, referred to as secondary suites in the city-wide Zoning By-law. The recommended Zoning By-law Amendment would bring the city-wide Zoning By-law 569-2013 into conformity with the Official Plan and the Growth Plan for the Greater Golden Horseshoe, and would be consistent with the Provincial Planning Policy Statement.

The recommended Zoning By-law Amendment (see Attachment 1) includes:

- Permitting the creation of secondary suites in new construction and existing homes
- A permitted maximum percentage of interior floor area a secondary suite may comprise to ensure it remains subordinate to the primary dwelling unit
- Removal of minimum secondary suite and dwelling unit sizes
- Reduced parking requirements
- Permitting secondary suites in all townhouses across the city
- Permitting an entrance to a secondary suite in a front wall facing a street in townhouses, and on a side wall facing a street on corner lots in detached houses, semi-detached houses and townhouses

RECOMMENDATIONS

The Chief Planner and Executive Director, City Planning recommends that:

1. City Council enact the Zoning By-law Amendment substantially in accordance with Attachment 1.
2. City Council authorize the City Solicitor to make such stylistic and technical changes to the Zoning By-law Amendment as may be required.

FINANCIAL IMPACT

The recommendations in this report have no financial impact.

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 24, 2018, City Council adopted EX33.3 with amendments, the Development Charges By-law Review which included amendments to exempt development charges for secondary suites in existing homes, charge at the apartment rate for secondary suites in new homes, and deferred development charges for laneway suites.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.EX33.3>

On June 26, 2018 City Council adopted Official Plan Amendment 403 and amended Zoning By-law 569-2013 to permit secondary suites in ancillary buildings adjacent to public lanes (laneway suites) in the Residential (R) zone within the now former Toronto and East York District.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.TE33.3>

At its meeting on July 5, 2018, the Planning and Growth Management Committee directed staff to undertake public consultations on a draft zoning framework to further facilitate the creation of secondary suites and report back with final recommendations and Zoning By-law amendments in Q2 of 2019.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.PG31.12>

On July 23, 2018, City Council adopted Official Plan Amendment 418 to encourage the creation of second units to increase the supply and availability of rental housing within neighbourhoods across the city.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.PG31.4>

POLICY CONSIDERATIONS

Policy and Legislative Framework

As set out in the July 5, 2018 report to Planning and Growth Management Committee, the Province of Ontario has updated and introduced new legislative and policy changes to encourage and promote the creation of second units across the province. These changes include amendments to the *Planning Act* to list affordable housing as a provincial interest and requiring municipalities to include Official Plan policies and zoning by-law provisions to permit second units within a primary dwelling or within an ancillary building. The policies or regulations permitting the (first or initial) second unit on a lot are not appealable, except by the Minister of Municipal Affairs. In addition, the changes 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 includes the requirement to permit second units without regard to the date of construction of the primary building and a maximum of one parking space be required per second unit.

Official Plan

The Official Plan contains policies in Chapter 3, Housing that provide for a full range of housing in terms of form, tenure and affordability across the City and within neighbourhoods. These policies also state that the existing housing stock will be maintained and replenished through intensification and infill that is consistent with this Plan. The policies in Chapter 2, Shaping the City and Chapter 4, Land Use Designations support development in Neighbourhoods and Apartment Neighbourhoods that respect and reinforce the existing physical character of the neighbourhood.

Official Plan Amendment 418, Second Units

On July 23, 2018, City Council adopted Official Plan Amendment (OPA) 418 to encourage the creation of second units to increase the supply and availability of rental

housing within neighbourhoods across the city. Now in effect, OPA 418 permits second units within a primary dwelling in a detached or semi-detached house or townhouse. In addition, OPA 418 includes policies to permit second units within a building ancillary to a detached or semi-detached house or townhouse where it can be demonstrated that it will respect and reinforce the existing physical character of the neighbourhood.

Official Plan Amendment 403 and Zoning Amendment, Laneway Suites

On June 26, 2018 City Council adopted OPA 403 and amended Zoning By-law 569-2013 to permit secondary suites in ancillary buildings adjacent to public lanes, known as laneway suites in the R zone within the now former Toronto and East York Community Council boundary as they existed on January 1, 2018.

COMMENTS

On November 15, 21, 26 and 27, 2018, City Planning held public consultation meetings in each of the four community council areas to receive feedback on a draft zoning framework to further facilitate the creation of secondary suites. Notice of the public consultation meetings were provided through an ad placed in the November 1, 2018 edition of the Toronto Sun and Now Magazine. In addition, tweets were sent via the City Planning Twitter Account and posts on the City Planning Facebook and Instagram Accounts. Approximately 100 people attended the four meetings, with Metro Hall hosting the largest meeting of 32 attendees. City Planning staff from Strategic Initiatives, Policy and Analysis and Zoning and Committee of Adjustment units attended all public consultation meetings.

In addition to the public consultation meetings, Zoning and Committee of Adjustment staff have consulted with staff in Toronto Building to inform the recommended zoning by-law amendments. Written correspondence was also received from the Landlord Self-Help Centre and the Downtown Legal Services community legal clinic and clinical education program at the University of Toronto.

As noted in the June 12, 2018 report to Planning and Growth Management Committee, City Planning staff also received comments at the public consultation meetings for second unit Official Plan policies (OPA 418) regarding the existing Zoning By-law regulations for secondary suites. Those comments included feedback that existing Zoning By-law regulations are too restrictive and limit the number of secondary suites being created across the city. Suggestions were made to amend the Zoning By-law to reduce parking requirements, permit second units within both new and existing primary dwellings and allow for the creation of more than one second unit on a lot.

Generally, people attending the public consultation meetings on November 15, 21, 26 and 27, 2018 were supportive of zoning by-law amendments to further encourage the creation of secondary suites. The public consultation meetings were attended by residents, housing advocates, home builders, and planning consultants. The following summarizes the feedback:

- Support for permitting secondary suites in all townhouses across the city
- Support for permitting the creation of a secondary suite in both new construction and existing homes
- Suggestions were made to reduce parking requirements in some parts of the city (e.g., close to transit) and/or for specific residential building types, such as townhouses
- Suggestions were made to permit some exterior alterations in a main wall facing a street for a secondary suite entrance, particularly where a side entrance is not possible in the case of a townhouse, and on corner lots
- Mixed opinions on regulating unit sizes, where more than one secondary suite is permitted, and relying solely on the Ontario Building Code
- Some support for expanding the Residential (R) zone permissions to permit more than one secondary suite in additional residential zones

Jurisdictional Summary of Secondary Suite Zoning Regulations

Staff undertook a cross-jurisdictional scan of secondary suite zoning regulations in similar municipalities across Ontario. All of the municipalities surveyed permit one secondary suite in both existing and new construction homes. Most municipal zoning regulations require a secondary suite to be no more than 40 - 49% of the main dwelling unit to ensure they remain subordinate to the primary dwelling unit. In the case of a one-storey house, a few municipalities clarify that a secondary suite may occupy the entire basement. Some municipalities also permit exterior alterations to accommodate an entrance for the secondary suite. A summary can be found in Attachment 2.

Proposed Changes to Zoning Regulations for Secondary Suites

Based on feedback received through the public consultations, as well as consultation with City staff and staff from the Ministry of Municipal Affairs and Housing, the following changes to the city-wide Zoning By-law are proposed:

The recommended Zoning By-law Amendment (see Attachment 1) includes:

- Permitting the creation of secondary suites in both new construction and existing homes
- A permitted maximum percentage of interior floor area a secondary suite may comprise to ensure it remains subordinate to the primary dwelling unit
- Removal of minimum secondary suite and dwelling unit sizes
- Reduced parking requirements
- Permitting secondary suites in all townhouses across the city
- Permitting an entrance to a secondary suite in a front wall facing a street in townhouses, and on a side wall facing a street on corner lots in detached houses, semi-detached houses and townhouses

The proposed Zoning By-law Amendment is one of many initiatives in the City's broad-based 'tool kit' to address housing needs across the city. The recommended Zoning By-law Amendment for secondary suites will help ease the creation of additional

secondary suites and rental housing stock, and is intended to be part of modernizing the zoning by-law to reflect contemporary living options in the Neighbourhoods. The following describes the existing zoning regulations and the recommended changes.

Definition of a Secondary Suite

A Second Unit is an overarching term in the Official Plan used to broadly describe an additional self-contained residential unit located within a primary dwelling (e.g., secondary suite) or within an ancillary building (e.g., laneway suite). Secondary suites, as permitted by the city-wide Zoning By-law, are located within and are smaller than, or subordinate to the main dwelling unit. They are connected to the primary dwelling through servicing and other matters and are not intended to be a stand-alone or severable unit.

The city-wide Zoning By-law 569-2013 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**." This is similar and consistent with the provincial definition of a second unit and those of other municipalities in Ontario (See Attachment 2 for a Jurisdictional Scan of Secondary Suite Zoning Regulations Across Ontario). Staff do not recommend changing this definition.

Permitted Building Types and Secondary Suites

Zoning By-law 569-2013 currently permits one secondary suite in:

- A detached house, in all residential zones
- A semi-detached house, in all residential zones
- A townhouse, in the R zone

Zoning By-law 569-2013 currently permits more than one secondary suite in:

- A detached house, in the R zone
- A semi-detached house, in the R zone

The R zone applies to the area roughly aligned with most of the former City of Toronto. A townhouse, as defined in the city-wide Zoning By-law 569-2013, includes what was previously defined as a row house in the former City of Toronto Zoning By-law 438-86. The former City of Toronto permitted secondary suites in detached houses, semi-detached houses and row houses much longer than the other former municipalities and this permission was carried forward in the Zoning By-law, 569-2013.

Staff heard unanimous support from the public and stakeholders to increase permissions for secondary suites in all townhouses city-wide. Staff recommend amending the Zoning By-law to permit secondary suites in all townhouses across the city, which is consistent with the requirement in the *Planning Act* and other municipal zoning regulations across Ontario.

Age of Building

Zoning By-law 569-2013 regulations require the original house to be more than five years old prior to the introduction of a secondary suite. In the R zone, a detached house and semi-detached house may be converted to have more than one secondary suite, subject to conditions. This permission requires detached houses and semi-detached houses to be at least five years old prior to the introduction of additional secondary suites. In one part of the R zone (i.e., the R(u2) zone), a detached house is required to be at least 40 years old prior to the introduction of additional secondary suites.

Toronto was one of the first municipalities to permit secondary suites in Ontario. In 1999, when City Council adopted amendments to all comprehensive zoning by-laws of the former municipalities to widely permit secondary suites there were concerns about increasing the density in the neighbourhoods. The five-year and 40-year rule was a way of easing into permitting secondary suites across the city within existing neighbourhoods by allowing only existing houses to be converted to accommodate a secondary suite. When originally constructed, many of the dwellings were designed to accommodate large families with the appropriate infrastructure capacity. In some areas of the city, particularly in the more suburban neighbourhoods, the population has flattened or in some cases declined.

As shown in the cross-jurisdictional scan of other municipal zoning regulations for secondary suites (Attachment 2), this rule is unique to Toronto. Recent changes to provincial policy were made to permit the creation of secondary suites in both new construction homes and existing homes. This is demonstrated through the proposed Minister's Regulation for Second Units that would require second units to be permitted without regard to the date of construction of the primary building.

Through the public and stakeholder consultations, staff heard that the five-year and 40-year restriction is a significant deterrent to creating legal secondary suites. Removing the time delay has the potential to have secondary suites incorporated into new home designs at a lower cost than trying to carve them out of an existing home. In addition, staff heard that this would encourage more home owners to create legal secondary suites that conform with all applicable law (e.g., Fire Code, Building Code, Zoning By-law), thereby ensuring they are safe and accessible.

To ensure a secondary suite remains subordinate to the primary dwelling unit, the Zoning By-law currently requires the interior floor area of a secondary suite to be less than that of the main dwelling unit. Through consultations with Toronto Building staff, City Planning staff heard some concerns about removing the time delay in relation to the ability to distinguish the difference between a duplex, and detached house with a secondary suite. As a secondary suite could have an interior floor area of 49% and the main dwelling unit could occupy 51% of the interior floor area, the two building types can be hard to differentiate, especially given the range of existing and new home form styles.

Staff recommend amending the zoning regulations to permit the creation of secondary suites in both new construction and existing homes. In order to ensure a secondary suite within a detached house is subordinate to the primary dwelling unit, and to distinguish it from a duplex, staff also recommend amending the zoning regulations to require the interior floor area of all secondary suites to be no more than 45% of the overall dwelling unit. In the case of a one-storey detached house with a secondary suite in the basement, staff recommend that the secondary suite be permitted to occupy the whole of the basement. These recommended changes are consistent with other municipal zoning regulations for secondary suites, help to distinguish the difference between a duplex and detached house with a secondary suite, and ensure secondary suites remain subordinate to the primary dwelling unit.

Parking Requirements

The current Zoning By-law 569-2013 regulations require one parking space for each secondary suite, which may be located in the front driveway as a tandem parking space. In the R zone, a parking space is only required for any additional secondary suites beyond the first one.

Staff heard in the public consultations that the existing parking requirements can act as a barrier for homeowners wishing to create a secondary suite, particularly where the property lacks an area to provide parking (e.g., mutual driveways, townhouses). Staff also heard the current parking requirements for secondary suites are onerous and unfair when compared to the parking requirements for laneway suites, another type of second unit which does not require any parking spaces to be provided on a lot.

The Official Plan encourages decreasing the reliance on personal automobiles in both policies and its general text in numerous areas. Policy 2.1.1.d) acknowledges that the City will work to develop strategies which reduce automobile dependency. Policy 2.4.1.3 directs the City to pursue measures which increase the proportion of trips made by active transportation and transit.

Improved local mobility options, such as cycling and transit infrastructure, the policy objectives of the Official Plan, and the prohibitive challenges to providing a parking space on a lot with a townhouse or a mutual driveway, support the removal of the requirement to provide a parking space for the first secondary suite in all zones and all building types. Therefore, staff recommend removing the requirement for an additional parking space for a secondary suite. In the R zone, where a detached house and semi-detached house may have more than one secondary suite, staff recommend keeping the zoning regulations to require a parking space for any additional secondary suites beyond the first one. This is consistent with many of the urban municipalities which do not require an additional parking space for the first secondary suite.

Access to Secondary Suites, Exterior Alterations and Additions

Zoning By-law 569-2013 regulations permit an addition or exterior alteration to a building to accommodate a secondary suite if it does not alter or add to a main wall or roof facing a street. An exception is provided to permit a porch, or basement extension under a porch; a balcony; and a dormer subject to size restrictions. The Zoning By-law does not include similar restrictions on additions or exterior alterations to a main wall or roof facing a street in residential buildings types that do not contain a secondary suite.

Staff heard in the public consultations that this restriction is overly onerous and prevents homeowners from creating a side entrance for secondary suites on corner lots. In addition, staff heard this restriction also prevents the creation of an additional front entrance facing a street where an internal entrance cannot be accommodated. As townhouses are typically narrow in width, staff heard that there is often not enough space inside the entrance of a townhouse to create an internal entrance for a secondary suite. In addition, townhouses lack a side wall and often a rear wall that can accommodate an entrance, leaving only the front main wall to accommodate an exterior entrance to a secondary suite.

To be consistent with existing permissions for additions and exterior alterations to residential buildings without secondary suites, staff recommend amending the zoning regulations to permit a second entrance for a secondary suite in the side wall facing a street on a corner lot in residential buildings, and an entrance in a front wall facing a street in townhouses. These recommended changes would respect and reinforce the existing physical character of the neighbourhood as the zones where townhouses are permitted also permit residential building types which may have more than one entrance in the front wall such as a duplex, triplex, fourplex, apartment building or mixed-use building. In addition, these recommended changes are also consistent with other municipal zoning regulations for secondary suites.

Unit Size

In the R zone, a detached house and semi-detached house may be converted to have more than one secondary suite, if they meet the size restrictions on both a secondary suite and the primary dwelling unit. Most of the R zone requires that the average floor area of the dwelling unit and every secondary suite be at least 65 square metres in both detached houses and semi-detached houses, if there is more than one secondary suite. In one part of the R zone (i.e., the R(u2) zone), a detached house is required to have a minimum interior floor area of 460 square metres, the dwelling unit and each secondary suite must be at least 55 square metres, and a secondary suite in an attic must be at least 42 square metres. These size restrictions were carried forward from the converted house permissions in the former City of Toronto Zoning By-law 438-86.

Staff heard mixed support for regulating unit sizes, where more than one secondary is permitted. Some residents felt relying solely on the Ontario Building Code to regulate the unit sizes were appropriate, and others felt there was justification to keep the unit size requirements in place.

Staff recommend removing all existing minimum size requirements for secondary suites and the primary dwelling unit and relying solely on the Ontario Building Code, which establishes minimum safety and function requirements. The proposed requirement that all secondary suites comprise no more than 45 % of the primary dwelling unit's floor area will also apply to ensure the secondary suites remain subordinate to the primary dwelling unit.

Current zoning regulations also include requirements for zones where a building is not subject to a maximum floor space index, for a secondary suite to not be divided vertically from the dwelling unit, unless the entire secondary suite occupies only part of one original story or only part of the original basement. This was to further ensure a secondary suite remained subordinate to the existing primary dwelling unit. The proposed requirement for a secondary suite to be no more than 45% of the interior floor area of the overall dwelling unit will ensure the secondary suite remains subordinate to the primary unit regardless of interior layout, and therefore, this regulation can be deleted.

Conclusion

Toronto was one of the first municipalities to permit secondary suites in Ontario, and is the only municipality that permits multiple secondary suites within detached houses and semi-detached houses. Twenty years ago, when City Council adopted amendments to all comprehensive zoning by-laws of the former municipalities to widely permit secondary suites, secondary suites were still a relatively new concept.

The proposed Zoning By-law Amendment updates the City's secondary suite regulations by removing the time delay, permitting them in all townhouses across the city, removing minimum size requirements, reducing parking requirements, and permitting the creation of some exterior entrances. The proposed changes respond to recent provincial policy changes and bring the city-wide Zoning By-law 569-2013 into conformity with the Official Plan.

Where appropriate, City Planning will examine other approaches to modernize zoning requirements across the city, including simplifying definitions and permissions for residential building types.

CONTACT

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SIGNATURE

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ATTACHMENTS

Attachment 1: Draft Zoning By-law Amendment

Attachment 2: Jurisdictional Scan of Secondary Suite Zoning Regulations