



January 11, 2022

10th floor, West Tower, City Hall
100 Queen Street West
Toronto, ON M5H 2N2
Attention: Nancy Martins

PH30.2 Expanding Housing Options in Neighbourhoods – Garden Suites – Final Report

Dear Deputy Mayor Ana Bailao, Chair and Members, Planning and Housing Committee,

FoNTRA supports the careful intensification of neighbourhoods and has been involved in the development of the new policies and regulations for Garden Suites to help ensure that the character of neighbourhoods is protected, and that the impacts on neighbours are acceptable. We have been pleased to see the wide consultations undertaken. Our Garden Suites Working Group has been actively involved in consultations with staff regarding a wide range of considerations required to carefully insert garden suites in the backyards of homes across the City.

Garden suites are proposed to be permitted in all areas zoned for low density housing. This means that they will be legally “permitted” on lots that cannot accommodate them due to lot width and or depth, and result in buildings that are too small to comply with the Ontario Building Code (OBC), or cannot meet the safe access requirement of the OBC. The alternative approach would be to do detailed neighbourhood studies across the City to make the permissions for each property clear, which would be a lengthy process.

Our comments on the Final Report and draft OPA and Zoning Bylaw are as follows.

Zoning (Building Types) covered by the proposed Garden Suites amendments

The current proposal is to allow garden suites in zones where duplexes, triplexes, and low-rise apartment buildings are permitted. However this expansion exceeds the City’s current mandate under Provincial Regulations. Further the current EHON study on expanding permission for multiplexes across the City, beyond the former City of Toronto and parts of East York and Etobicoke, will include a review of the current applicable regulations, and a new set of zoning regulations will be developed for these building types. Therefore allowing garden suites under the same rules as for detached and semi-detached houses and townhouses appears premature.

Recommendation – That permission to add a garden suite be limited at this time to those house forms mandated by the Provincial Regulations, specifically “single-detached, semi-detached, and rowhouses/townhouses” and that the amendments to

permit Garden Suites for lots zoned for multiplexes and apartment buildings be considered in the EHON Multiplex Study presently underway.

Primary Building Length and Separation Distance from Ancillary Dwelling

We previously proposed improvements to the proposed zoning regulations so that the distance between the existing house and the garden suite is 7.5m, the minimum rear yard setback required in residential districts and where to measure the rear of the house. We are concerned that the laneway suite provisions are being adopted instead, and that the new regulations should better protect the character of existing neighbourhoods as well as providing for future main residence replacements.

Recommendation – That the permitted zoning length of the primary dwelling and/or the actual building length (if greater than the permitted), be used in conjunction with the front yard setback, rather than the rear main wall, as currently proposed.

Recommendation – That a separation distance of 7.5 m between the garden suite and the defined rear location of the primary residential building be required and with no association to the height of a Garden Suite.

Conversion of Existing Ancillary Buildings

The Official Plan amendment under section 1 d) allows variance requests to be submitted “to maintain the intent and purpose of policy b) for iii. accommodating the Garden Suite within an existing building”.

The proposed zoning regulation provides exemptions for the conversion of existing ancillary buildings for rear yard set-back, side yard setback and separation distance. But conversion to become an inhabited building will generally have more negative impacts for the adjacent neighbours. Additional variances being granted could be even more impacting.

Recommendation - That applications for conversions of existing ancillary buildings (Section 45 of the Planning Act under OPA policy 1 d) iii.) be carefully reviewed as to whether the requested variances would negatively impact the primary dwelling and/or the adjacent neighbours' properties, and to determine if the variance is appropriate and/or if mitigating measures should be taken.

Tree Preservation Policies

FoNTRA and others have requested that the policies and provisions around tree protection be strengthened. We therefore strongly support Garden Suites report recommendation 7 which states that: “City Council direct the General Manager, Parks, Forestry, and Recreation to **refuse**, at the General Manager's discretion, a permit to injure or destroy a tree protected under Municipal Code Chapters 608, 658, or 813, Parks received in relation to a building permit application to construct a garden suite, and to advise the applicant to meet with City Planning and Urban Forestry staff as appropriate to consider how the location, massing and design of the proposed suite can be amended to protect the By-law protected tree in question”. The proposed provisions in the draft OPA and Bylaw should improve tree protection (based on the Tree Bylaw) and provide a basis for evidence for decision-making at the Committee of Adjustment to better protect trees.

Implementation Considerations

The proposals includes many aspects of implementing this program – staff training, provision of garden suite information, pre-approved designs, design competitions as well as effective monitoring. The successful addition of a garden suite to a neighbourhood requires careful attention to many factors such as the impacts on neighbours, trees and permeable soil, enclosing bins etc. The operation of the garden suites program therefore requires the integration of zoning approvals, tree protection, soft landscaping, encouragement of green roofs etc. Careful consideration by the Committee of Adjustment on all variances is essential. Pre-approved designs will be very helpful in speeding up approvals and a design competition will open up ideas for good examples to follow.

Communications

The Report states the importance for residents to have access to necessary information **before** planning a garden suite. Staff are preparing documents that will provide residents with details on tree protection, fire access, building code regulations, best practices of all kinds, as well as information on the Divisional contacts. The information must be available in a timely manner, certainly by the time that the Garden Suites legislation is “enacted and in full force” to ensure that critical issues, are addressed early in the design process. It is important that the material is presented in a way that is easily understood by the general public.

Recommendation - That community representatives such as residents associations and development industry reps be consulted in the development of the information material prepared for the public.

Monitoring Programs

Implementation of the program needs to be carefully monitored and evaluated over a period of time – the report has proposed a review at the earlier of 2 years and/or 200 permits, In addition, given that the Garden Suites program will be significantly broader in scope than for Laneway Suites.

Recommendation – That the Program Review include all the approval steps including – tree protection, nature of the garden suite, nature of Committee of Adjustment variances approved and denied, type of Garden Suite occupation, parking arrangements if any, use of shared access agreements etc.

However in our view shorter term monitoring is also required. In view of the importance of determining if adjustments are required as soon as possible, it would be prudent to conduct an ‘interim’ study with a specific, reduced set of criteria, with a report to PHC.

Recommendation - That an interim report be provided to PHC within the earlier of one year, or the issuance of the 100th building permit on a specific, reduced set of criteria including:

- applications eliminated after review for By-laws and OBC regulations, providing reasons for non-approval
- applications approved providing size of lot, size, height and number of storeys of the unit approved and if the application included a basement
- applications requiring variances
- variances requested for one of the reasons in OPA section d)
- report on types of approved variances
- conversion of existing ancillary buildings including the Exemption(s) used

- Permits received, discussed, approved and denied under Municipal Code Chapters 608, 658, and 813 on the subject property and adjacent properties
- if a shared access agreement was obtained

Supporting Information and Processes

City Planning report states “No new application process is proposed for the review and consideration of the construction of garden suites.”

Respectfully, we disagree. The Laneway Housing and Garden Suites initiatives introduce a new set of information requirements. The new programs mandate additional dwelling units on a lot, which raises a need to document and keep track of applications, approvals etc for BOTH/ALL the building on a lot. It appears that City processes do not do this very well at present.

The City needs to review its documentation and information processes to ensure that all units on a property can be tracked at an individual unit level and also in concert with the other units on the property (as well s previous changes to the same unit).

The FoNTRA working group in the course of its work has uncovered numerous issues related to this matter, which are discussed in an Appendix.

- **Recommendation:** That City Planning and Toronto Building report back to PHC regarding a review of documentation and information processes to ensure that all units on a property can be tracked at an individual unit level and also in concert with the other units on the property (and previous changes to the same unit).

Respectfully submitted,

Geoff Kettel
Co-Chair

Cathie Macdonald
Co-Chair

Appendix: Issues re Supporting Information and Processes (FoNTRA Working Group)

C.C. Gregg Lintern, Chief Planner and Executive Director, City Planning
David Driedger, Senior Planner, Community Planning
Allison Reid, Program Manager, Urban Design

APPENDIX

Issues re Supporting Information and Procedures (FoNTRA Working Group)

The City Planning report states “No new application process is proposed for the review and consideration of the construction of garden suites.” However, at present the City has not made changes to any application forms or tracking and inspection documents to record these units separately from other main buildings being renovated or built on the same lot. As well the exiting Mandatory Inspection chart that records the status of inspections does not record the inspection of landscaping plans. These documents are essential to control the accuracy and completeness of these applications and need to be updated to reflect this new form of habitable Ancillary Suites. Our investigation has uncovered specific problems and we have defined in Appendix A (at bottom of the letter) seven (7) Recommendations for actions we think are needed to address identified issues.

We are recommending much needed changes to both the Building Department and Planning Department’s procedures and forms for ancillary suite buildings variance applications and tracking. Our experience with trying to follow up on Laneway Suite developments is that the City has not changed their practices to ensure these new forms of housing are properly tracked and inspected. Additionally they are not integrated into the tracking data so they can be properly monitored and evaluated.

RECOMMENDED CHANGES TO BUILDING DEPARTMENT APPLICATION, INSPECTION AND MONITORING PROCESSES AND FORMS

City Planning report states:

- “No new application process is proposed for the review and consideration of the construction of garden suites.”

However,

- We believe that significant changes are required to control, inspect, regulate and report on the introduction of a new building form to our neighbourhoods

And,

Also note that PH30.7 Implementing the One-Stream Preliminary Review Program for Building Permit Applications includes the following recommendation:

- ‘City Council request the Chief Planner and Executive Director, City Planning, in consultation with the Chief Building Official and Executive Director, Toronto Building, to review application requirements for the Committee of Adjustment to consider requiring a preliminary zoning review to verify the minor variances and remove the option of a zoning waiver.’

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.PH30.7>

Application Process – Building Department - Forms

Problem Statement

- Building permit forms do not properly identify the nature of the development when multiple dwellings are proposed.
- City Building staff must determine the nature of the development by inspecting the submitted documents.

- Procedures for describing submitted documents vary across the City. City Staff must review planning documents to determine the number of dwelling and the type of dwelling. The process is error prone.
- Developments that include building permits for the main house and an additional ancillary suite do not have separate permit and inspection tracking.

Solution

- Modify the Building Permits form(s) to allow the Applicant to identify whether the application includes a Secondary Suite, a Laneway Suite or a Garden Suite and require a separate application for each building.

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Recommendation

1. City Council direct the Chief Building Official and Executive Director, Toronto Building, to report to City Council prior to the Garden Suite zoning by-law being firm and final on proposed changes to Building Permit forms and related processing procedures to handle new dwelling types.

Application Process – Building Department – Waivered Applications

Problem Statement

- Building permit forms and processes continue to allow for the use of Waivers.
- Garden Suites are a new form of housing with separate zoning standards unfamiliar to applicants and required to prepare complicated documents for multiple dwellings without any mechanism to control the accuracy and completeness of these documents.
- The rationale for the original use of Waiver process no longer exists, and a review of this rationale is required at this time.
- Building staff have a restricted role in the processing of Waivered applications, and proper oversight cannot be ensured.

Solution

- Eliminate the use of the Waiver process for any application that includes a Laneway Suite or a Secondary Suite.

Recommendation

2. City Council direct the Chief Building Official and Executive Director, Toronto Building to report to City Council on a plan to eliminate Waivers for Laneway Suites and Garden Suites.

Monitoring – Building Department – Inspection of Landscaping Compliance

Problem Statement

- The current 'Development Inspection Status Reporting' forms and procedures do not include the inspection and approval of the Soft Landscaping regulations and that should be added. As well it should be required to be passed prior to the occupancy permit being issued.
- In some cases, the completed and inspect property is modified after the issue of the occupancy approval. There are documented instances where rear yard soft landscaping has been altered or eliminated on Laneway Suite properties.
- Once the occupancy permit is granted access to inspect is more difficult and may not be permitted under current regulations.

Solution

- These methods and procedures should include checklists to allow for confirming that soft landscaping requirements in the rear yard have been met.
- Inspection procedures should be updated to ensure that the Building Staff include a compliance review of the soft landscaping areas.
- The Building Department should consider methods and procedures to provide for inspections of two buildings under one permit (as with one dwelling is ready for occupancy and the other dwelling is still under construction).

Recommendation

3. City Council direct the Chief Building Official and Executive Director, Toronto Building, to report to City Council on a plan to update monitoring and control procedures that will be used to manage multiple dwellings built on a single lot. These procedures should require detailed inspections of soft landscaping prior to the issue of an occupancy permit for ancillary dwellings.

Monitoring – Building Department – Summary Reporting

Problem Statement

- The Building Department provides summary information on open and closed permit applications on the city's Open Data Portal.
- This summary information is relied upon by many stakeholders.
- The summary information does not clearly identify whether the specified dwelling includes both a main dwelling and an ancillary dwelling.
- The existing summary information is not well designed to report on the progress of two buildings under a single building permit application.

Solution

- The Building Department should modify the summary information to clearly identify Laneway Suites or Garden Suites proposals.

Recommendation

4. City Council direct the Chief Building Official and Executive Director, Toronto Building, to report to City Council on a plan to update the summary information to be made available on the Open Data Portal.

RECOMMENDED CHANGES TO PLANNING DEPARTMENT COMMITTEE OF ADJUSTMENT APPLICATION AND MONITORING PROCESSES AND FORMS

City Planning report states:

- “No new application process is proposed for the review and consideration of the construction of garden suites.”

However,

- We believe that significant changes are required to control, inspect, regulate and report on the introduction of a new building form to our neighbourhoods.

Application Process – Planning Department - Forms

Problem Statement

- Committee of Adjustment application forms do not properly identify the nature of the development.
- The Applicant has considerable discretion to include or exclude key elements in their description of the proposed development.
- There are no specific instructions that the description include reference to ancillary dwellings.

Solution

- Modify the COA Application form to require the Applicant to identify whether the application includes a Secondary Suite, Laneway Suite or Garden Suite.
- Planning Staff provide better instructions to the Applicant who is describing the proposed development.

Recommendation

5. City Council direct the Chief Planner and Executive Director, City Planning to work with Chief Building Official and Executive Director, Toronto Building to gather Application at the same level of detail. The Chief Planner and Executive Director, City Planning to report to the City Council on a plan to integrate data capture and reporting procedures.

Monitoring – Planning Department – Summary Reporting

Problem Statement

- The Planning Department provides summary information on open and closed COA applications on the city's Open Data Portal.
- This summary information is relied upon by many stakeholders.
- The summary information does not clearly identify whether the specified dwelling includes both a main dwelling and an ancillary dwelling.
- The existing summary information is not well designed to report on the progress of two buildings under a single building permit application.

Solution

- The Planning Department should modify the summary information to clearly identify Laneway Suites or Garden Suites proposals.

Recommendation

6. City Council direct the Chief Planner and Executive Director, City Planning report to the City Council on a plan to update the summary information to be made available on the Open Data Portal.

Monitoring – Planning Department – Access to Closed Files

Problem Statement

- The Planning Department currently determines the period of time the closed application files remain on the Application Information Centre (AIC) portal.
- When the AIC portal was first introduced, these application details were available for the current calendar year and the previous calendar year.
- This two year period allowed for all stakeholders to review decisions of the Committee of Adjustment and site drawings related to application.

- Over the last year, the access to closed applications shown on the AIC portal has been reduced to about three months. No reason has been provided for this arbitrary change.
- Site monitoring at a granular level is no longer possible (e.g. comparing what was planned to what is built).

Solution

- The Planning Department direct that City IT Staff make two years of calendar data available on the AIC portal. Interested parties can access the required data as required.

Recommendation

7. City Council direct the Chief Planner and Executive Director, City Planning to make historical data for all closed applications available on the AIC portal for period of two calendar years.

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