

REPORT TO COUNCIL



Date: August 8th 2016

RIM. 1210-20 & 1250-30

To: City Manager

From: Community Planning (AC)

Application: TA16-0004/Z16-0010

Subject: To consider a Text Amendment to allow secondary suites in the remainder prohibited zones and to consider secondary suite amendments.

1.0 Recommendation

THAT Council receives, for information, the report from Community Planning dated August 8th 2016, with regards to a proposed text amendment that would permit secondary suites within single family dwellings throughout the City of Kelowna and amend various secondary suite regulations including business license requirements;

AND THAT Text Amendment No. TA16-0004 to amend City of Kelowna Zoning Bylaw No. 8000, as outlined in "Schedule A" attached to the Report from Community Planning dated August 8th 2016, be considered by Council;

AND THAT Rezoning Application No. Z16-0010 to amend City of Kelowna Zoning Bylaw No. 8000 to change the zoning classifications for all properties zoned CD6 to the zone identified in the OCP for that property (RU1, RU1H, RU4, RU4H, RU5, RU6, P3, P3LP, RM2, RM3, RM5, C2, C9, & A1), as identified in Appendix 'A' and Appendix 'B' attached to the Community Planning report dated August 8th 2016, be considered by Council;

AND THAT the Zone Amending Bylaw and Text Amending Bylaw be forwarded to a Public Hearing for further consideration;

AND THAT Council give reading consideration to Bylaw No. 11260 being Amendment No. 17 to Business Licence and Regulation Bylaw No. 7878.

2.0 Purpose

The purpose of this report is to consider text amendments to Zoning Bylaw 8000 to allow secondary suites within all single family dwellings and to consider carriage house and secondary suite amendments as well as some amendments to the Business License Bylaw.

3.0 Community Planning

3.1 Background

In September 2012, Council adopted a bylaw that “would permit secondary suites within single family dwellings throughout the City of Kelowna and to change the secondary suite zoning classifications.” However, the bylaw revisions left out the non-standard and Comprehensive Development zones which also permitted single family housing. These zones are:

- RU4 - Low Density Cluster Housing
- RU5 - Bareland Strata Housing
- RH1 / RH1(s) - Hillside Large Lot Residential (with secondary suite)
- RH2 - Hillside Two Dwelling Housing
- RH3 - Hillside Cluster Housing
- CD2 - Kettle Valley Comprehensive Residential Development
- CD6 - Comprehensive Residential Gold Resort

The City has a limited ability to influence the diversity of housing stock to address the needs of the community. However, the City can improve policy and zoning to support and to promote the provision of secondary suites across the City. Safe and legal secondary suites can provide many benefits to home owners including a revenue source to supplement income, assist a family member in need, and increase the value of the property.

By allowing the proposed changes the City can:

- help provide affordable housing in our community with minimal impact to neighbourhoods as no new infrastructure is required and the secondary suites are contained within existing single-family homes;
- continue to provide checks and balances for homeowners wanting to add a secondary suite to a single-family home. A building permit and business licence are still required;
- clarify regulations for ease of implementation for Staff and the community; and
- apply consistent treatment of all single family properties across the City regardless of the specific zone.

3.2 CMHC’s Rental Market Report - Kelowna CMA

According to the results from Canada Mortgage and Housing Corporation’s (CMHC) 2015 Fall Rental Market Survey, rental vacancies in the Kelowna Census Metropolitan Area (CMA) reached their lowest point in 2014 with the Fall Rental Market Survey which showed an apartment vacancy rate of 1.0 per cent compared to 1.8 per cent in 2013 and 1.5 per cent in 2015.

Several local economic factors were supportive of rental demand across the Kelowna CMA in 2014, resulting in lower vacancy rates. Employment levels grew modestly over the first ten months of the year. Kelowna’s younger age cohort, those aged 15 - 24 years, has had a modest but steady stream of part-time employment growth and more recently an increase in full-time jobs. Youth employment is a key driver of rental housing demand. Rising enrollment at the University of British Columbia Okanagan and positive migration into the Kelowna area also contributed to a growing number of renter households. A key supply side factor contributing to the lower vacancy rates and increasing rents in Kelowna was the addition of very few new rental units over the past two years. Faced with a limited selection of available purpose-built rental accommodations, a growing number of renters found suitable rental accommodations within the stock of available secondary rental units.

Accessory suites continue to be an attractive alternative housing arrangement for renters. There were an estimated 2,103 households living in accessory suites as of October 2014, up from 1,351 during the same period the year previous, and this number is expected to continue to grow¹. For example, the City of Kelowna approved building permits for 207 accessory suites in 2013 and an additional 220 building permits between January and October 2014.

3.3 Current Secondary Suite Process

A property owner requires a Building Permit and a Business Licence for the suite, which will take a total of approximately 2 - 4 weeks, depending on each individual site and the complexity of the retrofits.

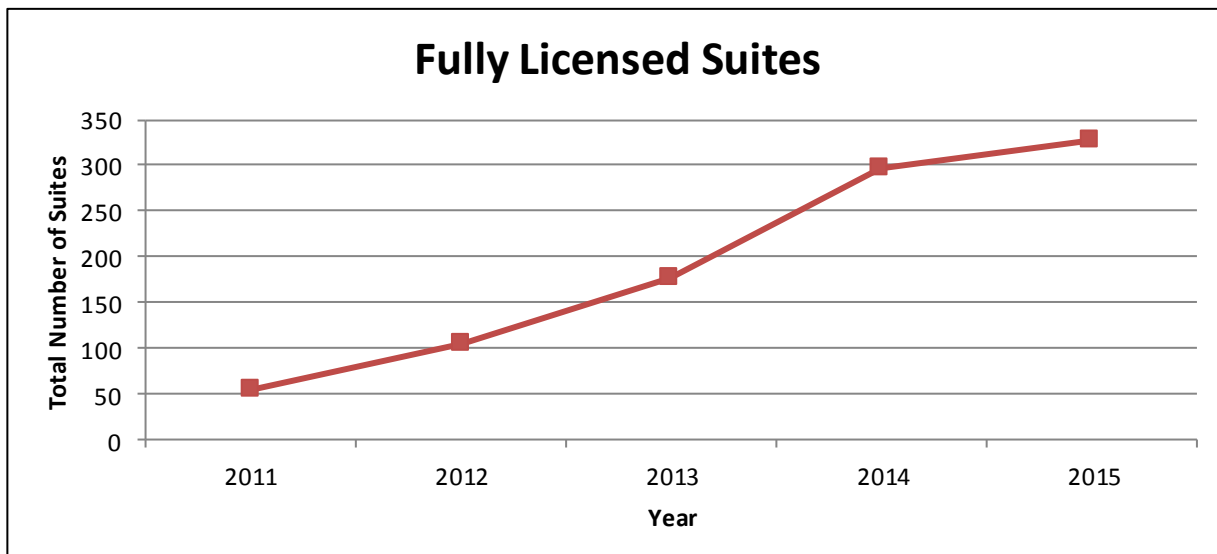
Through the submission of concurrent Building Permit and Business Licence applications, it will be determined if the secondary suite within a single family dwelling meets the requirements of Zoning Bylaw 8000 and BC Building code to obtain a Business Licence.

More specifically, the Building Permit application would ensure that the suite within the single family dwelling complies with the requirements of the Zoning Bylaw such as parking, pathway, private open space and lighting in addition to meeting the BC Building Code requirements. Once an Occupancy Permit has been issued, a Business Licence can then be processed and issued.

Currently, if a suite does not have a Business Licence and a complaint is received, Bylaw Services initiates an investigation. A suite is not considered legal unless it has an active Business Licence. Business Licenses are required to be renewed annually.

3.4 Status of Secondary Suite Legalization

Prior to 2012 each property needed a rezoning (to the 's' designation) if a secondary suite was to be permitted. In 2011, Council reviewed 41 's' rezoning applications for suites within a single family dwelling and only 2 were not supported by Council. Since allowing secondary suites outright, the City of Kelowna has steadily seen an increase in the number of legal suites licensed each year.



¹ Housing Market Outlook Kelowna CMA, CMHC, Fall 2015

The number of enforcement files related to secondary suites has steadily increased as well (see table below). This data illustrates citizens that have gone through the entire enforcement process to compliance, meaning they have either decommissioned their suite or have legalized it.

Date From	Date To	2011	2012	2013	2014	2015
Jan 01	Dec 31	136	139	157	250	277

Further, based on the business licenses data and the British Columbia Assessment Authority (BCAA) data, there are 631 properties in Kelowna that have a business license for a suite and are also assessed as having a suite. However, there are 1,771 properties that are assessed as having a suite but do not have a current business license. There are 482 properties that have a current business license for a suite but as not assessed as having a suite.

3.5 Proposed Secondary Suite Changes

3.5.1 Business Licenses

The secondary suite and carriage house regulations within the Zoning Bylaw require 'operators' of a secondary suite or a carriage house to hold a valid business license. However, this has been interpreted that a secondary suite or a carriage house must have a business license to be legal whether the owner is renting the dwelling unit or not. There is no other use category in the Zoning Bylaw that requires a 'type of use' to hold a business license to be legal. The original purpose of this requirement may have been to more easily track secondary suites and carriage houses but the main purpose of business license bylaw is to:

- a. require an owner or operator of a business within the City of Kelowna to hold a valid and subsisting license (including imposing of fees for licenses) for the carrying on of such business; and
- b. it is also the purpose of the business license bylaw to regulate the carrying on of business within the City of Kelowna, to the extent not inconsistent with the intent of the bylaw, for the purpose of protecting the public or preventing or minimizing nuisances and misleading business practices, and establishing different regulations for different classes of business.

The applicability of the regulations in the Business License Bylaw is limited to businesses earning income. Therefore, if secondary suites and carriage houses are not earning income, Staff are recommending those properties not be required to have a business license.

However, Staff are recommending one step further which would eliminate the need for a business license. This would require an amendment to the business license bylaw. The business license bylaw does not require property owners who are renting single detached dwellings, duplexes, triplexes, fourplexes, or townhouses to obtain a business license. Therefore, Staff are recommending that secondary suites conform with similar housing typologies.

The original purpose for requiring business licenses with secondary suites was to track legal secondary suites and provide statistics on the legalization process. Community Planning have coordinated with the Information Technology Staff to replace and to transfer the business license data into a 'legal suite' system in order to provide the ability for Bylaw Enforcement to continue to track legal secondary suites and provide statistics. This system will work similar to the

business license system. The only difference will be that One Window staff will enter all building permits for new secondary suite into the new 'legal suites' database instead of the "secondary suite - business license" database

3.5.2 Zoning

Staff are recommending that Council consider permitting secondary suites in the RU4 and RU5 zones which are strata zones. Strata corporations can self-regulate and can voluntarily restrict secondary suites if they desire. Further, if a single family strata lot can provide the private open space and the additional parking stall, then providing this option to property owners to increase the availability of the rental housing stock meets the goals and vision outlined in Kelowna's Official Community Plan. This same logic applies to the hillside zones (RH2 and RH3).

The remaining zones that currently do not permit secondary suites are CD2 (Kettle Valley) and CD6 (Quail Ridge, Tower Ranch, Gallaghers Canyon). The CD2 has a complicated set of sub-areas with zoning rules that are not based upon standardized residential and commercial zones in Kelowna. It is staff's suggestion that the CD2 zone remain intact while adding secondary suites as an allowable secondary use. The CD2 zone also states the total maximum density shall not exceed 1028 units which is in accordance with the Southwest Okanagan Mission Neighbourhood One Area Structure Plan that was adopted as part of the Kelowna Official Community Plan. Therefore, it is further recommended that a clause be added in the CD2 zone stating secondary suites shall not be counted as a dwelling unit for the purposes of calculating the maximum total density in the area.

The CD6 - Comprehensive Residential Golf Resort zone was intended to provide for the development of a residential golf resort which includes one or more land use designations as an integrated development unit based on an Area Structure Plan. The density within each area (Quail Ridge, Tower Ranch, and Gallaghers Canyon) is based on an averaging of all lands within the development. However, there are many problems associated with this zone. The first and largest anomaly is the principal use is "participant recreation services, outdoor" meaning each lot must have a golf course on it prior to any other use.

Further, the CD6 zoning interpretation has been compromised by a system of covenants registered on each title stating each sub-area within the CD-6 zone follow the future land use map. This system of covenants effectively represents various other standardized zones (RU1, RU4, RU5, RM3, etc.) and their associated development regulations. Within the development regulations of the CD-6 zone it states:

"lands are to be developed for residential use in accordance with one or more of the RU1/RU1h, RU2/RU2h, RU4/RU4h, RU5, RU6/RU6h, RM2, RM3, RM4, or RM5 zones. Commercial and hotel uses allowed in the CD6 zone shall be developed in accordance with the C2 or C9 zoning districts, and open space or public utility uses shall be developed in accordance with the P2, P3, or P4 zoning districts."

This means within the CD-6 area, any of those zones can exist as long as it is consistent with the plan identified in the Area Structure Plan. This had led to many interpretation conflicts. Further,

the City's legal counsel advised the zone needs to be eliminated or amended significantly in order to comply with the Local Government Act.

Staff's recommendation is to eliminate the CD-6 zone and rezone each sub-area to be consistent with the Area Structure Plan for each Golf Course and the future land use map. Once this occurs the traditional zoning will allow for secondary suites in each area.

3.5.3 Zoning (Parking)

Secondary suite Parking was amended in a recent zoning bylaw amendment. However, these rules have proved to be difficult to implement and Staff are recommending that the rules be simplified and clarified. Currently the suite parking reads:

One additional parking is required for a secondary suite is required which shall be:

- i. be designated as being solely for the **use of the secondary suite**
- ii. not be located within a private garage which is attached to and provides direct access to the principal **dwelling**;
- iii. not be provided in a tandem configuration;
- iv. be located within the required **front yard** setback area if the **parking space** does not block access to a required **parking space** utilized by the principal **dwelling** unit.

Providing a parking stall that has to be in the front yard setback but not block access to a required parking stall for the principal dwelling has proven ineffective. Staff are recommending this section be replaced with the following:

Secondary suite parking:

- i. shall be designated as being solely for the **use of the secondary suite**;
- ii. shall be accessed from a lane in circumstances where a rear or a side lane abuts the property;
- iii. shall be surfaced with permanent surface of asphalt, concrete or similar pavement.
- iv. shall be accessed from any *driveway* existing at the time the *secondary suite use* commences in circumstances where no rear or side lane abuts the property;
- v. can be located in the driveway and in tandem with the single detached dwelling parking as long as two additional off-street parking stalls provided for the principal dwelling

3.6 Infrastructure Impacts

Technical comments received indicate that the City's current infrastructure would be able to absorb additional secondary suites within single family dwellings, should the number of new suites be consistent with the volume processed over the past years.

It is anticipated that owners of current illegal secondary suites within single family dwellings would legalize the units given the streamlined process, however, as they currently utilize City infrastructure, no additional servicing load would be anticipated for these illegal units. However,

should some area see an unprecedented increase in new suites (100+), there may be an impact on the sanitary sewer and water systems which could have a financial impact on the City's long term servicing plan.

3.6.1 Zoning (Servicing - Secondary Suite and Carriage House Prohibition)

Due to hydrogeotechnical challenges with on-site disposal systems and the private wastewater treatment facility, Staff are recommending that secondary suites and carriage houses not be permitted in the Gallaghers Canyon area (See full diagram in attachments). The Gallaghers Canyon privately operated treatment facility is near capacity and even a negligible increase in capacity should not be permitted until sewer is extended to this area or capacity improvements to the system are installed. The City has no plans for sewer extension or upgrades in this area.

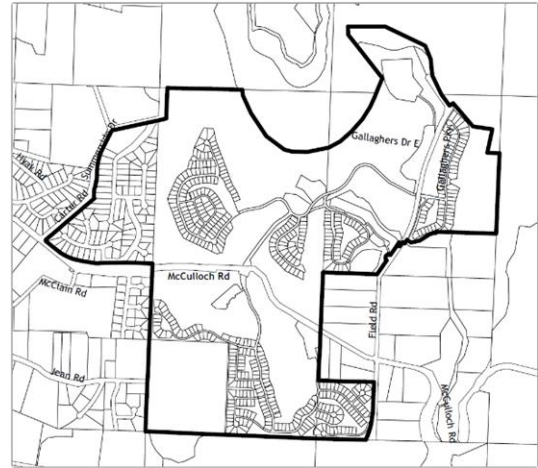


Figure 9.5

The Eastwood subdivision immediately west of Gallaghers Canyon is also included in the proposed suite prohibition as a Hydrogeological Assessment was performed by Golder Associates in March of 2010 and concluded there are septic problems in this area related to soil conditions.

4.0 Existing Policy:

4.1 Kelowna Official Community Plan (OCP)

Goals for a Sustainable Future²

Contain Urban Growth. Reduce greenfield urban sprawl and focus growth in compact, connected and mixed-use (residential and commercial) urban and village centres.

Address Housing Needs of All Residents. Address housing needs of all residents by working towards an adequate supply of a variety of housing.

Include Distinctive and Attractive Neighbourhoods. Develop distinctive and attractive neighbourhoods and urban centres with safe, accessible public spaces that enhance investment.

Future Land Use Designation

Single / Two Unit Residential³ Single detached homes for occupancy by one family, single detached homes with a secondary suite, semi-detached buildings used for two dwelling units, modular homes, bareland strata, and those complementary uses (i.e. minor care centres, minor public services/utilities, and neighbourhood parks), which are integral components of urban neighbourhoods. Suitability of non-residential developments within the neighbourhood environment will be determined on a site-specific basis. Non-residential developments causing increases in traffic, parking demands or noise in excess of what would typically be experienced in a low density neighbourhood would not be considered suitable.

² OCP Chapter 1

³ Official Community Plan (OCP) - Chapter 4- Future land Uses

Other Supporting Policies

Policy 5.2.3 Complete Suburbs.⁴ Support a mix of uses within Kelowna's suburbs (see Map 5.1 - Urban Core Area), in accordance with "Smart Growth" principles to ensure complete communities. Uses that should be present in all areas of the City (consistent with Map 4.1 - Future Land Use Map), at appropriate locations, include: commercial, institutional, and all types of residential uses (including affordable and special needs housing) at densities appropriate to their context.

Policy 5.3.2 Compact Urban Form.⁵ Develop a compact urban form that maximizes the use of existing infrastructure and contributes to energy efficient settlement patterns. This will be done by increasing densities (approximately 75 - 100 people and/or jobs located within a 400 metre walking distance of transit stops is required to support the level of transit service) through development, conversion, and re-development within Urban Centre's (see Map 5.3) in particular and existing areas as per the provisions of the Generalized Future Land Use Map 4.1.

Policy 10.3 Policy 1 Housing Availability.⁶ Support the provision of housing for all members of the community, including those in core housing need or requiring special needs housing (transitional, age in place, emergency or shelter).

Objective 5.34 Policy 1 Secondary Suites.⁷ Encourage secondary suites on agricultural land to be located within a permitted principal dwelling.

4.2 Council priorities 2014-2018

Planning Excellence. Council wants to ensure a strong foundation is in place so the short- and long-term needs of the community are met. This will require a focus on long-term planning that is innovative, while based on best practices.

5.0 Technical Comments

For technical comments regarding suite implementation see TA12-0005/Z12-0035. See attachments for Development Engineering comments.

Report prepared by:

Adam Cseke, Planner

Reviewed by:

☐

Terry Barton, Urban Planning Manager

Approved for Inclusion:

☐

Ryan Smith, Community Planning Manager

Attachments:

Appendix "A"

Appendix "B"

⁴ OCP Objective 5.2- Develop sustainability

⁵ OCP Objective 5.3 -Focus development to designated growth areas.

⁶ OCP Objective 10.1- Support the creation of affordable and safe rental, non- market and /or special needs housing.

⁷ Official Community Plan Objective 5.34 -Preserve productive agricultural land