

## SECONDARY SUITES - UPDATE

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### EXECUTIVE SUMMARY

On **2014** December 15, Council directed Administration to report back on several matters related to secondary suites. This report is the last of three reports responding to Council's direction. It presents information on the procedures and implications associated with a licensing system, a plebiscite, and allowing secondary suites in a radius around rapid transit stations. Other matters related to secondary suites are concurrently in progress including:

- Proposed land use amendments for wards 7, 8, 9 and 11;
- Implementation of a Secondary Suites Registry system; and
- A neighbourhood consultation handout for secondary suite applications (see Previous Council Direction / Policy, below).

### ADMINISTRATION RECOMMENDATION

That the SPC on Planning and Urban Development recommends that Council:

1. Receive this report for information;
2. Direct that no further consideration to a vote of the electors on a question relating to secondary suites be given; and
3. Direct that no further consideration to a policy approach that would encourage secondary suites only in the vicinity of rapid transit stations be given.

### RECOMMENDATION OF THE SPC ON PLANNING AND URBAN DEVELOPMENT, DATED 2015 JUNE 10:

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That Council:

1. Receive this report for information;
2. **Administration Recommendation 2 lost at Committee; and**
3. Direct that no further consideration to a policy approach that would encourage secondary suites only in the vicinity of rapid transit stations be given.

Excerpt from the Minutes of the Regular Meeting of the SPC on Planning and Urban Development, dated 2015 June 10:

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"APPROVE, Moved by Councillor Woolley, that Administration Recommendation 2 contained in Report PUD2015-0442 be approved, as follows:

That the SPC on Planning and Urban Development recommends that Council:

2. Direct that no further consideration to a vote of the electors on a question relating to secondary suites be given.

ROLL CALL VOTE:

For:

G-C. Carra, E. Woolley

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Against:

S. Keating, J. Magliocca, R. Pootmans, W. Sutherland, A. Chabot

MOTION LOST

Pursuant to Section 155(7) of the Procedure Bylaw 44M2006, as amended, Councillor Woolley requested that the lost Recommendation be forwarded to Council for information."

### **PREVIOUS COUNCIL DIRECTION / POLICY**

On 2015 May 11, Council held a public hearing to consider report CPC2015-070, proposing amendments to the Land Use Bylaw to allow secondary suites in all low density land use districts in wards 7, 8, 9, and 11. Council gave first reading to the proposed Bylaw 14P2015, and tabled second and third readings to the 2015 June 29 Regular Meeting of Council. Council also directed Administration to develop and implement a requirement for a "secondary suite registry / licence" for all new secondary suites in wards 7, 8, 9 and 11, following the adoption of Bylaw 14P2015; and directed Administration to require applicants to use a neighbourhood consultation handout, as presented to Council in Report C2014-0920, Attachment 11, as part of the secondary suite application.

On 2015 March 30, Council endorsed the Suite Safety Campaign as outlined in Report PUD2015-0229 "Secondary suites – working group," and directed Administration to prepare an amendment to the Land Use Bylaw to allow for an 18 month exemption from a Development Permit for suites where they are already permitted. Administration expects this report to be before Calgary Planning Commission in June 2015.

On 2014 December 15, in response to report C2014-0920 "Secondary and backyard suites policy & other housing options," Council directed Administration to return to Council by Q2 2015 with a report outlining the procedures and implications of:

- a) A licensing system for secondary suites.
- b) Feasibility of a plebiscite on secondary suites, including a potential question.
- c) Allowing secondary suites in a radius around rapid transit stations.

As Administration has dealt with the land use amendments to allow suites in the four wards separately, this report responds to three matters: licensing system, plebiscite and allowing suites around transit stations. This report is therefore the third of three reports responding to Council's direction.

### **BACKGROUND**

Administration has addressed the subject of secondary suites in many recent reports to Council. Some land use changes implemented in recent years include:

- Council policy directive that all new communities will use the R-1s district instead of the R-1 district, ensuring that suites are allowed in low-density residential districts in new communities (NM2011-10);
- Adding secondary suites to a number of low density residential, multi-residential and city centre land use districts (Bylaw 34P2010); and

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- Making secondary suites permitted uses (instead of discretionary) in some districts (Bylaw 12P2010, Bylaw 34P2010).

Secondary suites are now an option in more land use districts than was the case previously. However there are still regulatory requirements that can be seen as an expensive deterrent to landowners seeking legal approvals for suites. In response, The City has developed initiatives intended to encourage the development of safe suites that comply with City bylaws and permit requirements. Examples include:

- Suite Safety program – a pilot project to investigate suites and bring non-compliant suites into compliance (2012-2013);
- Land use amendment and Development Permit fee waiver – since 2014 January, The City of Calgary has waived the fees for Land Use Redesignation applications and Development Permits pertaining to secondary suites; and
- Secondary Suite Registry - on 2015 March 30 Council adopted a proposal to implement a Secondary Suite Registry initiative that would enable suite owners to get a safe suite sticker upon having a successful safety codes inspection of the suite. The registry program will enable The City to better track the number and location of legal secondary suites. (PUD2015-0229, “Secondary suites – working group”).

Additional work has been carried out in 2015 to prepare Land Use Bylaw amendments that would allow secondary suites in all low density districts in wards 7, 8, 9 and 11. As part of the deliberations on the bylaw amendments, Council also directed Administration to develop and implement a requirement for a “secondary suite registry/ licence” for all new secondary suites in Wards 7, 8, 9 and 11 following the adoption of the bylaw amendments in Bylaw 14P2015; and directed Administration to require applicants to use a neighbourhood consultation handout as part of the secondary suite application. While at the time of writing a final decision on allowing suites in the four wards has not been reached, the neighbourhood consultation handout has been approved.

## **INVESTIGATION: ALTERNATIVES AND ANALYSIS**

### **Licensing**

A report from 2014 December provided Council with an analysis of the feasibility of applying Calgary’s Business Licence Bylaw 32M98 to secondary suites (C2014-0920, Secondary and backyard suites policy & other housing options). Council did not direct that the business licence system be applied to secondary suites, but did request further information on a licensing system. In addition, in 2015 May Council directed that Administration “develop and implement a requirement for a secondary suite registry / licence for all new secondary suites in Wards 7, 8, 9 and 11, following the adoption of Bylaw 14P2015.” While the latter Bylaw has not yet received second and third reading, this report provides some information that relates to this recent Council direction mentioning both the registry and licensing options.

Attachment 1 to this report describes the distinction between a registry and a licensing program, and provides an overview of how a secondary suite licensing program might work. Because Council has already approved the implementation of a registry, the information on licensing is provided only to complete the response to Council’s direction from 2014. Administration does

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not recommend implementing a licensing system as it would largely duplicate the functions of the registry.

As described in Attachment 1, a potential Secondary Suite Licence Bylaw would require any secondary suite to have a licence. Before The City issues a licence, the applicant would have to demonstrate that the necessary planning approvals are in place, including compliance with the Land Use Bylaw, a Development Permit, and building and trade permits. The main function of the licence, then, would be to provide a “one-window” mechanism for ensuring compliance with applicable rules.

The main drawbacks of a Secondary Suite Licence Bylaw include the following:

- creates an additional cost to suite owners, which would in all likelihood be passed on to the occupants of the suite;
- adds more “red tape” to the process of obtaining necessary approvals for a legal suite;
- will require additional resources to implement and manage enforcement; and
- largely duplicates the suite registry system that has recently been approved by Council.

Administration estimates that an additional three Licence Inspectors would be needed to enforce a new Secondary Suite Licence Bylaw at a cost of \$0.5 million per year.

Neither the registry nor the licensing option will add to The City’s existing authority to enforce the Safety Codes and City bylaws related to residential neighbourhoods, such as the Community Standards Bylaw, Land Use Bylaw, Street Bylaw and Traffic Bylaw, to name a few. It is worth noting that the City of Mississauga adopted a “Second Unit Licensing Bylaw” for secondary suites which came into effect in 2014 January. That city has recently directed its Administration to review the licensing program and consider a registry program instead.

While developing a licensing regime for secondary suites is possible, there would be a cost to do so and no clear advantage over the registry option. Therefore licensing is not recommended by Administration at this time. The registry system, which Council adopted in 2015 March, will provide a less costly process to ensure the safety of secondary suites. It is intended to be an incentive, by giving suite owners a “stamp of approval” that can be easily verified by enforcement officers and tenants, through the use of stickers and the ability to review registry information. Administration recommends that Council allow staff to establish the suite registry system and monitor the results for 18 months to determine if the registry is effective in achieving its goals of promoting suite safety and providing an information repository for safe and legal suites.

### **Plebiscite (vote on a question)**

The Municipal Government Act no longer uses the term “plebiscite.” Instead the Act refers to the process as simply a question that is put to the electorate.

Attachment 2 outlines the legislative provisions, process and costs associated with putting a question to the electorate for a vote. A question may be included as part of a municipal election, or it may be a stand-alone process. The cost of a stand-alone process will be significantly higher than that associated with a question on a municipal election ballot.

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The criteria for the nature of a question are established by the Local Authorities Election Act, RSA 2000, c. L-21, as well as by Canadian case law surrounding plebiscites and referenda. In brief, the question must:

- Be answerable with either a “yes” or “no”, or “for” or “against”;
- Be clear and concise; and
- Be formulated by Council.

### ***The question***

As noted earlier, Council has taken steps in recent years to allow secondary suites in more residential districts as well as some centre city (mixed use) districts. Presently, secondary suites are allowed in nine of the 11 low density residential districts, eight of the 11 multi-residential districts and two of the centre city land use districts.

The residential districts where suites are not an allowable land use are R-1, R-C1 and R-C1L, which this report refers to collectively as the low-density residential districts.

A sample question could be:

Do you support secondary suites in low-density residential districts city-wide?

In order for this question to be clear, voters would need an explanation that the phrase “low-density residential districts” includes only the R-1, R-C1 and R-C1L districts, where suites are not currently allowed.

However Council could consider other questions that relate to making it easier to create a suite. For example:

Do you agree that The City of Calgary should make it easier to create secondary suites in the districts where they are currently allowed?

Such a question would not challenge the current land use rules for low-density residential districts, but would instead gauge the public’s willingness to see more active encouragement of secondary suites in areas where Council has already decided that they are allowed.

### ***Implications of a question***

Attachment 2 outlines the procedure and estimated cost of a vote on a question. If the question were added to the next regular municipal election in 2017, the cost is estimated at \$390,000. However if a stand-alone election to vote on a question were held, the cost would be on the order of \$2 million. Other implications of putting a question to the electorate on the subject of secondary suites in low-density residential districts would include the following.

### ***Not binding on Council and cannot replace a public hearing***

The results of a vote on a question are not binding on Council: s. 236(2), MGA. Council would still make any changes to land use districts through the usual process as prescribed by the MGA, entailing amendments to the Land Use Bylaw and the associated three readings and

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public hearing. A public vote on a matter that is the subject of a Land Use Bylaw amendment will not eliminate the need for a public hearing, as land use and development impacts must be considered. The fundamental purpose of public hearings is to allow for those parties affected to express their views and to give the decision maker the benefit of public examination and discussion of issues surrounding the proposed amendments.

Each application for a land use that would allow a secondary suite must be the subject of a public hearing and must be assessed according to planning principles only. The same is true of a City-initiated amendment to the Land Use Bylaw that would introduce suites in additional districts. The results of a vote of the electorate on a question on the subject of secondary suites would be of limited relevance and could be seen to compromise Council's discharge of their duty to listen to the submissions of the public with an open mind and determine the issue based on the planning merits of the application. Failure to do so puts the Council decision at risk of a legal challenge.

### *Not a statistically valid survey*

While a vote of the electorate on a question is a way to gather information on a widespread basis on that particular question, the results are not of the same standard as a statistically valid survey. That is, the sampling is not random, nor weighted to be representative of the population. Rather the results are more analogous to a self-selected survey, meaning it is more prone to bias.

### *Public education and awareness would be necessary in advance of the vote*

To encourage participation and assist the public to have an informed opinion, it would be necessary to carry out some public education and awareness in advance of the vote. There would be a cost associated with an awareness campaign.

Based on this analysis a vote of the electors on a question related to secondary suites is not recommended. The cost and demand on resources is high, and the value of the information is limited since the vote is not binding, and cannot replace a public hearing on a Land Use Bylaw amendment.

## **Secondary suites around rapid transit stations**

Attachment 3 sets out an analysis of the implications of allowing secondary suites in proximity to rapid transit stations. The relevant policy framework includes policies in the Municipal Development Plan (MDP) and the Transit Oriented Development (TOD) Guidelines. The MDP policies encourage a mix of housing types including suites in all geographical areas. The TOD Guidelines encourage medium and high density housing in proximity to transit stations; a suite in a single-detached home is considered low density.

There are potential pros and cons associated with encouraging suites near transit stations. Some occupants of suites may be less likely to own a car and rely on transit, making them a natural demographic for transit oriented areas. However the downside is that developing suites in low-density areas near transit may serve to prolong the viable lifespan of aging housing stock, and slow down or discourage the process of redevelopment and intensification that is a policy goal of transit-oriented development. Such an approach is incremental and is likely to have only

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a limited effect on the goal of increasing housing choice in all communities. It is Administration's view that there is no clear policy advantage to encouraging secondary suites only in proximity to transit stations.

### Stakeholder Engagement, Research and Communication

The information presented in this report was gathered through consultation with the City services who would be responsible for designing and administering the initiatives, including the Law Department, Business Licence in Community Services & Protective Services (licensing program), the Returning Officer in City Clerks (vote on a question), and the Land Use Bylaw Sustainment team in Planning, Development & Assessment and Calgary Transit in Transportation (suites in proximity to transit stations).

### Strategic Alignment

The MDP encourages a mix of diverse forms of housing, including compact and efficient forms such as accessory suites, semi-detached dwellings, row houses and townhouses. As well, it encourages higher density and mixed use in activity centres that include transit stations.

#### Section 2.2.5

- a. Encourage growth and change in low-density neighbourhoods through development and redevelopment that is similar in scale and built form and increases the mix of housing types such as accessory suites, semi-detached, townhouses, cottage housing, row or other ground-oriented housing.

#### Section 2.3.1

- a. Provide for a wide range of housing types, tenures (rental and ownership) and densities to create diverse neighbourhoods that include:
  - i. A mix of housing types and tenures, including single detached, ground-oriented (e.g., duplexes, row houses, attached housing, accessory dwelling units and secondary suites), medium- and higher density and mixed-use residential developments; and,
  - ii. A range of housing choices, in terms of the mix of housing sizes and types to meet affordability, accessibility, life cycle and lifestyle needs of different groups.
- b. Promote a broader range of housing choice for all ages, income groups, family types and lifestyles by:
  - i. Encouraging housing opportunities for low- and moderate-income households in all communities;
  - ii. Promoting innovative housing types, such as co-housing, live/work and cottage and carriage housing and accessory dwelling units, as alternative means of accommodating residential growth and providing affordable housing options; and,
  - iii. Including supportive land use policies and development strategies in the Implementation Guidebooks and/or in Local Area Plans that encourage the provision of a broader range of housing affordable to all income levels.

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- f. Create affordable housing by encouraging:
  - vi. The provision of an adequate supply of rental accommodation across the city that is affordable to low-and moderate-income households.

### Section 3.3.1

- a. Activity Centres should be locations for a mix of medium and higher density employment and residential uses.

### Section 3.5.1

- a. Recognize the predominantly low density, residential nature of Developed Residential Areas and support retention of housing stock, or moderate intensification in a form and nature that respects the scale and character of the neighbourhood.

### **Social, Environmental, Economic (External)**

Secondary suites can offer a variety of societal and economic benefits including contributing to affordable rental housing stock, providing mortgage payment assistance for homeowners, and providing sensitive intensification in developed neighbourhoods. Encouraging secondary suites may contribute to these benefits.

A licence system that could be created in addition to the approved registry system would run counter to the goal of encouraging more suites as it would result in an additional cost to owners, which would likely be passed on to the residents of the suite, and essentially add red tape.

A vote on a question put to the electors could provide some level of information to assist decision-makers on the matter of secondary suites in low density districts. However the public expense of a vote on a question is high compared to the value of the information, given that the result of such a vote is not binding on Council.

The Transit-Oriented Development (TOD) Policy Guidelines hope to achieve a variety of social, environmental and economic benefits by encouraging transit use, reducing reliance on automobile travel, providing a more compact development form that prioritizes walking, cycling and transit over private vehicle travel, and maximizing the benefits of investments in infrastructure. Promoting secondary suites in TOD areas may have the contrary impact of supporting the retention of aging single-detached homes and thereby slowing or discouraging the desired intensification around transit stations, which would limit the social, environmental and economic benefits sought.

### **Financial Capacity**

#### **Current and Future Operating Budget:**

Implementing a Secondary Suites Licence Bylaw would result in estimated \$0.5 million of additional costs to hire three additional Licence Inspectors needed to enforce the bylaw.

The one-time cost of a vote on a question, either as a stand-alone election or as part of a municipal election, has been estimated to range between \$390,000 and \$2.0 million. Carrying



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out the requisite public engagement for a vote on a question would also entail expenditure of operating budget funds.

Implementing a program to make land use changes to enable suites to occur in the vicinity of transit stations would require a planning and public engagement program for the affected areas. In 2011 Council received a report (LPT2011-37, "Secondary suites community consultation – scoping of options") outlining the cost of public engagement on the subject of enabling suites in the vicinity of transit stations and post-secondary institutions. Administration developed order of magnitude costing for a range of scenarios, from a basic city-wide policy process, to community focused participation, and finally in-depth community level engagement. Estimated costs ranged from \$280,000 to \$1.29 million. This report does not provide a full cost estimate for these options; however the cost estimates from 2011 are informative.

There is no provision for any of these three initiatives in the 2015-2018 Business Plan and Budget.

### **Current and Future Capital Budget:**

There would be a capital cost associated with the information technology required to support a new licensing program.

### **Risk Assessment**

The strategies canvassed in this report present a range of risks. Creating a Secondary Suites Licence Bylaw would create a risk of increased red tape and cost associated with adding safe suites to the inventory in Calgary, which is counter to the intention of promoting safe suites. This program would for the most part duplicate the Suite Registry program approved by Council in 2015 March.

A vote on a question (plebiscite) would have costs that are high relative to the value and utility of the information obtained. The results would not be binding on Council. Implementing the results of a "yes" vote on the question would require changes to the Land Use Bylaw, involving all of the requisite statutory processes including a public hearing.

Encouraging secondary suites in the vicinity of rapid transit stations may discourage or slow down the trend of redevelopment of older housing stock and intensification that is a policy goal for transit-oriented development.

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### **REASONS FOR RECOMMENDATIONS:**

Council directed Administration to provide information on three potential ways to address the issue of secondary suites: a licensing system, a plebiscite (question), and allowing secondary suites in a radius around rapid transit stations. Adoption of a Secondary Suite Licensing system would be largely redundant and duplicative of the approved direction to implement a Secondary Suite Registry and is not supported. A vote of the electorate on a question relating to secondary suites is not recommended as it would carry a high cost in terms of money and staff resources. Because the results are not binding and it cannot replace a public hearing on Land Use Bylaw changes, the process would be of limited utility. Encouraging secondary suites in the vicinity of rapid transit stations is not recommended as it is an incremental approach with a limited geographical application that is unlikely to have much of an impact on the goal of encouraging housing diversity and choice in all communities, and does not advance Council's approved policy that seeks to achieve medium and high density transit-oriented development around transit stations.

### **ATTACHMENTS**

1. A potential licensing system for secondary suites
2. Procedure and cost of a vote on a question (plebiscite)
3. Allowing secondary suites around rapid transit stations