

Planning & Development Report to
SPC on Planning and Urban Development
2019 April 03

ISC: UNRESTRICTED
PUD2019-0336

Improving Secondary Suite Safety in Semi-detached Dwellings – Scoping Report

EXECUTIVE SUMMARY

On 2018 April 23, Council directed Administration to explore options to bring illegal Secondary Suites in Semi-detached Dwellings into conformity with the Land Use Bylaw (the Bylaw) and to explore enforcement mechanisms to bring these suites into compliance with the Alberta Building Code (the Code).

Secondary Suites in Semi-detached Dwellings can be grouped into two categories: non-conforming and illegal. A suite built prior to 1970 March 16 is a non-conforming use, which means it is a lawful use. As a result, suites built before this date do not require land use or development permit approval and can apply for a building permit to bring the dwelling up to safety standards. A suite built after this date is an illegal use. To legalize these suites, a land use redesignation is required, followed by development permit, then building permit.

A pathway for safety for both types of buildings exists; however, for illegal suites it is much more arduous and lacks certainty. To remove these barriers, Administration has provided three options for Council to consider: City-initiated redesignations to the Residential – Grade-Oriented Infill District (R-CG), amending the Bylaw to allow Secondary Suites in Semi-detached Dwellings, or addressing this issue as part of the larger Bylaw review work.

ADMINISTRATION RECOMMENDATION:

That the Standing Policy Committee on Planning and Urban Development recommend that Council:

1. Adopt Option #2 as the strategy to legalize Secondary Suites in Semi-detached Dwellings; and
2. Direct Administration to report back to the SPC on Planning and Urban Development by the end of Q4 2019, with the required Land Use Bylaw and policy amendments to support Option #2 as described in this report.

RECOMMENDATION OF THE STANDING POLICY COMMITTEE ON PLANNING AND URBAN DEVELOPMENT, 2019 APRIL 03:

That Council:

1. Adopt Option #2 as the strategy to legalize Secondary Suites in Semi-detached Dwellings;
2. **Direct administration to work with the City Bylaw department and City Inspection department to ensure that citizen housing is not compromised in the interim situation until a bylaw is established; and**
3. Direct Administration to report back to the SPC on Planning and Urban Development by the end of Q4 2019, with the required Land Use Bylaw and policy amendments to support Option #2 as described in this report.

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PREVIOUS COUNCIL DIRECTION / POLICY

A copy of the following direction is contained in Attachment 1.

On 2018 April 23, that with respect to Notice of Motion C2018-0512, the following be adopted:

“NOW THEREFORE BE IT RESOLVED that City Council direct Administration to:

1. Explore options for a path to legality for illegal dwellings existing within this four-plex condition throughout the city potentially through City-initiated conversion to R-CG or by some other appropriate means;
2. Explore enforcement mechanisms for landlords unwilling to bring these four-plexes into compliance with the Building Code once a path to safety through legality has been established; and
3. Report back to Council through the Standing Policy Committee on Planning and Urban Development with a scoping report no later than Q2 2019.”

BACKGROUND

Administration estimates there are 27,472 Semi-detached Dwellings in the city. These are in every community in Calgary. 11,630 or 42 percent of Semi-detached Dwellings are in the Residential – Contextual One/Two district (R-C2). Refer to Attachment 2 for a detailed breakdown of the land use districts where Semi-detached Dwellings and Secondary Suites are allowed, and the number of Semi-detached Dwellings per land use district.

There are approximately 6,196 Semi-detached Dwellings that were constructed before 1970. These are in 76 communities throughout the city. Buildings that were built prior to 1970 March 16 are considered non-conforming as the Bylaw that was in place before this date was struck by the courts. A non-conforming use can continue to exist legally, so long as it has not been discontinued for longer than six months or enlarged or added to. Secondary Suites located within a Semi-detached Dwelling built before this date require a building permit application to bring the suite into compliance with the Code and then be placed on the Suite Registry.

A Secondary Suite built in a Semi-detached Dwelling after 1970 March 16 is considered illegal as they are not allowed to be combined with a Semi-detached Dwelling. This is because Secondary Suites in a Semi-detached Dwelling were considered to have transitioned the building from a low density residential use to a multi-residential use (i.e. two dwelling units to four dwelling units). However, as a Secondary Suite cannot be legally subdivided from the primary dwelling it is located within, it is not considered its own dwelling unit and is accessory to the primary dwelling unit. Therefore, Secondary Suites in Semi-detached Dwellings are a low density residential use. Acknowledging this, the Residential – Grade-Oriented and Low Density Mixed Housing land use districts (R-G, R-Gm, R-CG and R-CGex) were adopted by Council beginning in 2014 and are intended to allow for a variety of ground-oriented housing forms, including Secondary Suites within a Semi-detached Dwelling.

To legalize an illegal Secondary Suite in a Semi-detached Dwelling the current process requires a land use redesignation, typically to either the Residential – Grade-Oriented district (R-CG) or to a multi-residential district. If the land use redesignation is approved by Council a development permit is required, followed by a building permit and placement on the Suite Registry once all inspections are passed. This process addresses illegal suites on a site-by-site basis and is

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dependent on the landowner making an application to legalize their suite. It does not address illegal suites in Semi-detached Dwellings at a city-wide scale.

Secondary Suites in Single-detached Dwellings previously also required a site-by-site land use redesignation. To address this issue, on 2018 March 13 Council adopted the comprehensive *Secondary Suite Process Reform*. This omnibus report contained Bylaw amendments to remove the land use redesignation requirement, established the *Policy to Guide Discretion for Secondary Suites and Backyard Suites* (the *Policy*) to assist with decision making on development permits, created a Suite Registry for legal and safe suites and waived fees for the Registry and development permits. It also established a two-year “amnesty period” for illegal suites where enforcement is focused on education and actively working with landowners to bring their suite into compliance. During this time a suite owner will not be prosecuted for not having their suite on the Suite Registry. This “amnesty period” ends on 2020 June 01. Additionally, as part of the *Secondary Suite Process Reform*, the City is accepting the 2014 Fire Code requirements as a guideline to determine minimum safety requirements for suites existing prior to 2018 March 12. This presents high cost savings for an owner in terms of construction requirements. This interpretation will apply until 2020 June 01. After that time, all Secondary Suites will be required to be constructed to the requirements of the Code in force at the time of building permit application.

The *Secondary Suite Process Reform* has been successful at identifying illegal suites and working with landowners to bring their suite into compliance with the Bylaw and the Code. The number of development permit applications for Secondary Suites in 2018 rose 500 percent from 2017. Many of these applications were processed on-site, in the applicant’s own home, which is the first time Administration has provided such a service. At the time of writing, the Registry has 1325 registered suites. Attachment 3 provides more detail on the *Secondary Suite Process Reform*.

The pathway to legality issues that Secondary Suites in Semi-detached Dwellings face is like what Single-detached Dwellings previously encountered. Removing barriers and simplifying the process for approval for landowners has been effective at making Secondary Suites in Single-detached Dwellings legal and safe.

INVESTIGATION: ALTERNATIVES AND ANALYSIS

Administration has identified three options to establish a path to legality for Secondary Suites in Semi-detached Dwellings. Attachment 4 details issues for Council to consider with each respective option.

Option #1 – City Initiated Redesignations to the R-CG district

This option would direct City staff to identify Semi-detached Dwellings with Secondary Suites on a site by site basis and redesignate the parcel to the R-CG district as R-CG is generally appropriate throughout the city. This would generally mean redesignating R-C2 parcels to R-CG.

This option is resource intensive as Administration would have to identify and redesignate these parcels which means adhering to the requirements of the Municipal Government Act (MGA) in terms of notification and public hearing. Administration estimates this work would take approximately 8 - 12 months (Q2, 2020) to complete, and would cost approximately \$400,000 to

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\$500,000 due to public communication and land owner notification requirements. If public engagement and local area plan amendments are required this cost will increase significantly and the work would likely not be delivered in Q2, 2020. 1 dedicated Senior Planner FTE not currently accounted for in the 2018-2019 work plan is required.

Option #2 – Amend the Land Use Bylaw definitions of Semi-detached Dwelling and Secondary Suite

Currently Secondary Suite is listed in every district where Semi-detached Dwelling is listed however, the definitions of Semi-detached Dwelling and Secondary Suite currently only allow a Secondary Suite within a Single-detached Dwelling (except the R-CG districts). Council could amend the Bylaw definitions to allow Secondary Suites in Semi-detached Dwellings. This option would capture all Secondary Suites in a Semi-detached Dwelling where it is a listed use in the district (such as R-C2). Allowing Secondary Suites in a Semi-detached Dwelling means parcels would keep their current land use district and removes the requirement for a land use redesignation.

An analysis of several items will be required before making these Bylaw amendments. This option will require Bylaw amendments to list Secondary Suites in Semi-detached Dwellings as either a permitted or discretionary use. A permitted use does not require a development permit if the rules of the Bylaw are met and allows an applicant to proceed to building permit. A permitted use that does not meet the Bylaw rules, or a discretionary use, require a development permit. The Development Authority would consider the policies contained in the *Policy* when making their decision on the application.

An analysis of the parking requirements in the R-C2 district will be required. There are parcels with existing Secondary Suites in a Semi-detached Dwelling that will not meet the current parking rules and will likely have their development permit refused. For example, on lots less than 9.0 meters wide, a Semi-detached Dwelling with a Secondary Suite on each half would require 6.0 total parking stalls (two for each side of the Semi-detached Dwelling, and one for each suite), which is impossible to achieve on this wide a parcel. If the intent is to legalize this building form, then the Bylaw rules and/or the *Policy* should be amended to support this outcome.

As Semi-detached Dwelling and Secondary Suite are already listed uses in these districts the Bylaw can be amended with no requirement for individual land owner notification and no risk of conflict with local area policy as the development potential for the site would remain the same. As this is a textual amendment to the Bylaw, Administration can complete this by the end of Q4 2019. This would give owners six months to benefit from the development permit and Registry fee waiver and the 2014 Alberta Fire Code requirements, before they expire on 2020 June 01. Public communication would focus on information distribution to citizens costing approximately \$50,000.

Option #2 is Administration's recommendation as it is analogous to the *Secondary Suite Process Reform* as it removes the land use redesignation process for a landowner. Attachment 5 scopes this option.

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Option #3 – Include with the Renewed Land Use Bylaw work

Administration has identified A Renewed Land Use Bylaw as one of the priority policy areas in the City Planning and Policy Priorities 2019 (PUD2019-0145). Instead of minor, incremental amendments, changes to the Bylaw should be undertaken with a view towards achieving comprehensive change and overall improved outcomes for great communities for everyone. This work has already begun with Administration considering options for how to align the Developed Areas Guidebook with the Infill Districts in the Bylaw. This work will contemplate a new approach to land use planning that could significantly change how development is considered, including a higher emphasis on creating a built form that will enable the desired community environment. This concept and plan is anticipated to be presented to Council in Q3, 2019, with most of the work to be done over the following year (2020), should Council approve the direction. This option is a longer-term project that will not support those land owners who are wanting to legalize their suite in the immediate future.

Existing Semi-detached Dwellings on R-C1 parcels

As part of the review for this report Administration learned there are 140 Semi-detached Dwellings on Residential – Contextual One Dwelling Districts (R-C1) parcels. The R-C1 district is intended for Single-detached Dwellings and does not allow for Semi-detached Dwellings. 53 of these buildings were built prior to 1970 March 16 and are deemed a non-conforming use and can continue to exist legally, so long as the use has not been discontinued for longer than six months or enlarged or added to. The buildings constructed after 1970 March 16 are considered illegal. The construction of a new Semi-detached Dwelling on these parcels would require a land use redesignation.

Administration recommends no Bylaw amendments to bring these buildings into conformity and leaving these buildings in their existing status. By doing this it ensures that, if Option #2 is adopted by Council, these Semi-detached Dwellings would not be able to develop Secondary Suites resulting in four units on an R-C1 parcel.

Enforcement

Based on the volume of inspections, permit applications, and customer feedback, Administration attributes the success of the *Secondary Suite Process Reform* to the removal of the land use redesignation process and the enforcement strategy used by inspection staff. This strategy is based on three objectives:

1. Make it easier for owners of suites to comply with the Land Use Bylaw and Alberta Building Code
2. Provide clear information for citizens to effectively navigate the process to develop a compliant suite; and
3. Encourage owners of existing suites to legalize and register their suites during the amnesty period.

Proactive enforcement with mailout notifications, combined inspections and on-site development permit applications have been effective tools in establishing legal and safe Secondary Suites.

The timeline for Option #2 will have Bylaw amendments presented to Council by the end of Q4 2019. Assuming Council adopts these changes, this would give applicants six months to benefit from the development permit and Registry fee waiver, the 2014 Alberta Fire Code requirements

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for existing suites and the “amnesty period” where an owner of a suite will not be penalized for having an unregistered suite, before this part of the *Secondary Suite Process Reform* expires on 2020 June 01. After this date, fees are reinstated, suites must comply with the current Code requirements, and all suites must be registered. Therefore, Administration recommends employing this strategy as part of the path to compliance for Secondary Suites in Semi-detached Dwellings.

Stakeholder Engagement, Research and Communication

No specific consultation was undertaken to respond to this Notice of Motion due to Council requesting options being presented for their consideration. Engagement and communication plans will be created based on the Council direction from this report and tailored to those respective requirements.

Strategic Alignment

Option #2 establishes a clear path to legality for Secondary Suites in Semi-detached Dwellings and aligns with the 2019-2022 Service Plan Citizen Priority *A City of Safe and Inspiring Neighbourhoods* and the 2019 Planning and Development Accountability Plan key result areas:

- Municipal Development Plan/Calgary Transportation Plan vision is advanced:
 - Advance the long-term vision of the Municipal Development Plan and the Calgary Transportation Plan
 - Provide clarity to ensure development proceeds in a coordinated manner
- Development is realized:
 - Apply City policy and bylaws to application review and ensure building plans are prepared to meet Alberta Building Code
 - Work with applicants through the entire review process where key decision-makers give the final approval
- Buildings are safe:
 - Ensure compliance with regulations that govern building, use and occupancy

Option #2 provides consistency across Calgary in terms of where a suite may be developed and supports Municipal Development Plan policies including:

- Strong Residential Neighbourhood policies (subsection 2.2.5) that “encourage growth and change in low density neighbourhoods” and “increases the mix of housing types such as accessory suites”.
- Housing policies (subsection 2.3.1) that support modest intensification, and provide for a wide range of housing types, tenures and densities to create diverse neighbourhoods” and promote “a broader range of housing choice for all ages, income groups, family types and lifestyles”.
- Developed Residential Areas policies (subsection 3.5.1) that support “moderate intensification in a form and nature that respects the scale and character of the neighbourhood” and that “support the revitalization of local communities by adding population”.

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Social, Environmental, Economic (External)

Social

Making the process clearer for suites will increase the supply and range of affordable accommodation and support changing demographics by providing more housing options for extended families, or for a live-in caregiver for elderly residents.

Environmental

Providing a range of housing types in Developed Areas supports public transit, cycling and walking and makes efficient use of existing infrastructure.

Economic

Making the process clearer for suites will help create more mixed income communities, which support local businesses and local labour markets. Creating a pathway to compliance before the amnesty period expires may help to incentivize owners of existing illegal suites to come forward.

Financial Capacity

Current and Future Operating Budget:

Option #1 requires 1 dedicated Senior Planner FTE not currently accounted for in the 2018-2019 workplan

Option #2 and #3 have no implications on the current and future operating budget.

Current and Future Capital Budget:

No implications identified.

Risk Assessment

Option #1 will potentially expand the scope of the intent of the Notice of Motion from legalizing existing suites, turning it into a planning exercise for each parcel. Given that the R-CG district may not be the appropriate district for each site, it may have unintended consequences that are not realized until redevelopment of the site occurs. It will also provide greater development opportunity than what the parcel may currently allow, which may conflict with existing policy goals. Option #1 will likely take much longer than the expected Council timeline and may interfere with the Renewed Land Use Bylaw work that is currently underway.

Option #2 will require amendments to the rules in the R-C2 land use district, including the parking requirement. Providing parking on-site is typically the biggest concern communities have with Secondary Suites. While parking is a concern, it is mainly a concern of on-street parking, which is not something regulated by the Bylaw. On-site parking requirements influence building design and form. If addressing required parking is not supported by Council these suites will have no path to compliance and will not be brought up to today's safety standards.

Option #3 is a longer-term project that does not support landowners who are intending to legalize their Secondary Suite in the immediate future.

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REASON(S) FOR RECOMMENDATION(S):

Amending the Bylaw to allow Secondary Suites in a Semi-detached Dwelling is the most straightforward method to legalizing existing illegal suites in this building form as it would establish consistency across residential areas in the city where a Secondary Suite can be developed. Option #2 can be completed in a short time period, avoids any land use conflicts with existing policy, avoids having to identify individual parcels and notify landowners, and requires minimal cost. This option also aligns with the approach adopted by Council in the *Secondary Suite Process Reform* by removing the land use redesignation process.

ATTACHMENT(S)

1. Attachment 1 – Copy of Notice of Motion C2018-5012
2. Attachment 2 – Semi-detached Dwelling Statistics
3. Attachment 3 – Secondary Suite Process Reform Information
4. Attachment 4 – Issues to Consider for each Option
5. Attachment 5 – Recommended Option #2 Scoping