

To: Lorraine Hilton
Chief Administrative Officer

From: Michael Dillistone, Approving Officer
Laura Beckett, Planner

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To Council
December 4, 2017

SUBJECT: SECONDARY SUITES AND ACCESSORY DWELLINGS

RECOMMENDATION

THAT council receive this report for information and consideration of the draft policy/program and regulatory framework set out in the Appendix A and direct staff to organize an open house to solicit input on the draft policy/program and regulatory framework and bring back a report on the results of the consultation for consideration.

SUMMARY

Highlands already has a significant number of unauthorized dwellings and it is expected that this trend will continue. Based on an investigation of other local governments and how they have approached the regulation of Secondary Suites and Accessory Dwelling Units, this report sets out a number of issues for discussion and a proposed policy and regulatory framework for consideration.

Permitting Secondary Suites and Accessory Dwelling Units and adopting a program of legalization will require further staff and financial resources and will likely not result in absolute compliance of all unauthorized dwelling units. It will however allow property owners to improve many existing units and make it possible for new units to be designed and built to meet BCBC standards.

BACKGROUND

As part of its Strategic Plan, Council asked staff to prepare a report outlining an approach to considering secondary suites in the community. While secondary suites are not permitted under existing zoning regulations, it is estimated that approximately 30% to 50% of properties in Highlands have some form of unauthorized secondary suite and/or additional unapproved dwellings (estimate based on information from Highlands Building Official). Given increasing land costs and housing shortages in the region this trend is likely to continue.

The Official Community Plan (OCP) contemplates the potential for “secondary housing” as part of the community. Policy 2.2 (24) states: “*When Council considers secondary housing, sustainability will be the prime factor for consideration*”.

A description of the measures of success based on the *Sustainable Highlands Decision Making Framework* is included in Appendix B to inform Council discussion (Sustainable Highlands Summary Document (<http://bc-highlands.civicplus.com/DocumentCenter/View/1864>)).

In 1995, based on a growing interest in supporting and legalizing secondary suites, the Province introduced Section 9.36 of the British Columbia Building Code (BCBC) to create alternative standards to allow suites. In the BCBC a secondary suite is an additional dwelling unit within a building with all of the following characteristics:

- Total floor space of not more than 90m² (968 sq. ft).
- Floor space of not more than 40% of the habitable floor space of the building.
- Located in a residential building with only one other dwelling unit.
- Located in a building that is a single real estate entity.
- A secondary suite cannot be separately strata titled.

This section of the BCBC allows certain relaxations from normal code requirements.

In 1999 the Highlands Housing Task Force (HHTF) prepared a report which recommended the adoption of a policy to allow secondary dwellings in the community. The report, which included a survey of residents, provides an excellent overview of the issue in the community and recognized that there were already a number of unauthorized secondary dwellings in the community.

Among other recommendations, the HHTF report suggested that a minimum lot area of 5 acres should be applied when considering secondary suites. The main purpose of this was to impose a limit on the amount of secondary suites in the Highlands. The report recognized that the suggested 5 acre minimum limit was arbitrary. The HHTF report also considers the regulation of separate or detached suites as a viable housing option.

Since 1999 many communities in British Columbia have adopted programs, policies and regulations to allow new secondary dwellings and to seek to legalize existing unauthorized units.

In 2005, Council considered an analysis of the impact of increased density on groundwater including the potential for secondary suites and/or residences. The District's Comprehensive Groundwater Study, a regional-level groundwater analysis, modelled groundwater levels for the development scenarios that included 20% and 50% of properties having secondary dwellings. A separate analysis was done with the same two variables adding the influence of climate change. The 2012 Phase 3 Groundwater Study concludes that climate change is expected to be the limiting factor that affects groundwater levels in the District rather than secondary housing. An excerpt from the executive summary is included in Appendix C for information. The full groundwater study (all three phases) can be found at website: <http://highlands.ca/177/Ground-Water-Protection-Study> .

The reasons for having a secondary suite or accessory dwelling are many and varied. These can include:

- mortgage helpers,
- support on large properties for aging in place,
- support for younger or older family members,
- providing a diversity of housing options

It is important to note that in all cases, secondary suites or accessory dwellings are intended as rental units and are not intended to be for ownership.

COMMENTARY

For the purposes of this discussion a Secondary Suite (SS) is defined as a second dwelling unit on a property that is contained wholly within the principal dwelling. An Accessory Dwelling Unit (ADU) is defined as a second residential unit on a property that is contained within a garage, or separate building.

There are a number of considerations which must be taken into account when considering a program to regulate SS's and ADU's. The following section, which is largely based on the experience of other local government jurisdictions, sets out a number of these considerations for discussion:

1. Many jurisdictions have adopted procedures for both permitting new SS's and ADU's and legalizing existing units. Of the two, the former, permitting additional units in new buildings is by far much simpler than dealing with existing units. In many jurisdictions concerns about safety and health in existing suites are a main focus for initiating a legalization program. The health and the safety of tenants in possibly unhealthy or unsafe living conditions are concerns in every municipality, as are the potential liability concerns related to this aspect of the matter. At present Highlands' policy of enforcement is complaint driven. If Council decides to proceed with a program of legalization they will have to consider whether this approach is still appropriate.
2. Administrative costs will be impacted by the amount of work involved on the part of planning, bylaw enforcement and inspection staff. This will depend on the response to the program but enforcement and the demand on staff resources will be determined – to a large extent – by the answers to the question posed in Section 1 above. Some municipalities have aggressively sought to locate existing suites, using real estate listings, assessment data, familiarity with the area and a legalization campaign. Other jurisdictions – generally those where the need for affordable housing is the greatest – have taken a gentler approach and tried to work with residents to make it as easy as possible to legalize units. This appears to be the path of least resistance. Nevertheless, it must be acknowledged that there will be additional demands on staff time and other resources including the need for additional enforcement and inspection staff, increased legal fees, additional administration costs including planning staff time and preparation of information. An advantage of permitting SS's and ADU's in new construction is that it will encourage property owners to consider this option from the outset. It is much easier to build a new suite to Building Code requirements than it is to retrofit an existing unit.
3. The loss of existing rental suites is a genuine possibility as it may be impossible to bring some existing units up to BCBC standards or other regulations. In many cases the application of equivalent or alternative life safety standards to existing units has been found to be an essential tool. Some jurisdictions have taken the additional step to adopt alternative safety standards however as already described, the BCBC standards for secondary suites already provide for alternative safety standards.

If it is impossible to meet the necessary standards for health and safety, the suite must be closed. This means a loss of income to the homeowner and loss of accommodation to those occupying the unit. It may also mean a loss of sense of security. Especially on larger and remote properties, where having another person or persons living on the property may be important to some residents' sense of security.

Providing assistance to homeowners could help to ease the ability to legalize a unit. This assistance can take many forms: information posted on Highlands' website, brochures or information sheets available at the office counter, the offer of free inspections and advice, a checklist of items that must be dealt with, etc.

4. In addition to BCBC standards, increasing the number of dwelling units on a property also puts additional pressure on a property's septic systems and water supply. Uncertainty of sewage and water capacity is an important concern from a health perspective and the long term viability of ground water resources. New and existing dwellings would be required to have their septic and water systems approved for the additional unit by VIHA.

Although the 1999 HHTF report suggested a minimum lot area of 5 acres should be applied when considering additional dwelling units on a lot, this may be too limiting and may not capture many of the already existing unauthorized units. Requiring all new units to meet VIHA requirements for sewage disposal and potable water may be seen as a more equitable determining factor than lot size.

5. Preservation of open space and protection of environmentally sensitive areas is an important consideration. This is especially true when considering separate ADU's. An increase in number of units on a site may have an effect on this however the Highlands' existing regulatory mechanisms such as the need for Development Permits for environmentally sensitive areas and Building Permits should help to mitigate this concern. Wildfire interface regulations will likely require additional tree removal for separate dwelling units on a lot. Minimizing site disturbance should be a factor for consideration of ADU's and this should be clearly stated in any information about creating new units.
6. In many cases property assessments reflect the presence of a suite whether they are authorized or not. While this presumably increases the tax revenue, based on the additional suites, a number of municipalities have introduced separate licensing and registration fees to help offset some of the costs to the local government.
7. In most jurisdictions the need for additional parking and the potential increase in traffic are a concern. In terms of parking, it is typical that new dwelling units be required to provide one additional parking space. Increased traffic is more difficult to gauge and control. It could be expected that each additional unit would generate at least one more vehicle on each property. While this is a consideration it is difficult to regulate.
8. While one of the valid reasons for creating additional dwelling units is to support the need for housing within families, some municipalities tie the occupancy of an additional dwelling unit to family relationship. This is may not be enforceable. It is also difficult to control and creates additional burdens for administration and enforcement. It is not recommended.
9. Community acceptance is critical for the successful implementation of any program. Many municipalities carry out extensive consultation programs and have elaborate communication plans before, during and after adoption. Based on the District's Public Participation/Community Engagement Policy (<http://www.highlands.ca/documentcenter/view/6561>), staff feel that, if Council decides to proceed further with this initiative, it should be considered to be at the "*consult level*" and initially, Council may want to consider one or two information open houses to solicit input.

10. Inability of a community to provide affordable rental accommodation is a valid concern, particularly as housing prices continue to increase. Individual single family homes are generally expensive to rent – in the few cases when they are available for rent.

CONCLUSION

Highlands already has a significant number of unauthorized dwellings and it is expected that this trend will continue. It makes sense for the District to consider permitting and regulating suites and accessory dwellings to try and regularize this form of housing.

Given the experience in other municipalities and potential staff and other resource implications, a “go slow” and simple approach would be best. To be clear, this will not likely result in absolute compliance of all unauthorized dwelling units but will offer the opportunity to improve many existing units and make it possible for new units to be designed and built to meet BCBC standards.

OPTIONS

1. *(Recommended)* That Council receive this report for information and direct staff to organize an open house to solicit input on the draft policy/program and regulatory framework set out in Appendix A and bring back a report on the results of the consultation for consideration.
2. That Council receive this report for information and ask staff to bring back further information on specific areas (to be identified by Council) for consideration.
3. That Council receive this report for information and direct staff to prepare the policies and regulatory tools to implement the draft policy/program and regulatory framework set out in Appendix A and bring back a report on resource implications for budget consideration.
4. That Council receive the report for information and not proceed with further consideration of Secondary Suites and Accessory Dwellings.

Respectfully submitted

CAO Concurrence



Michael Dillistone, MCIP, RPP

Lorraine Hilton, CAO



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Attachments: Appendix A
Appendix B
Appendix C

APPENDIX A

Draft Policy/Program Outline

1. Amend the Zoning Bylaw to permit both Secondary Suites (SS's) and Accessory Dwelling Units (ADU's) in all zones where the principal use is a single-family dwelling, except for the Rivers Crossing and Hannington Creek Estates developments where they are not permitted by the Stratas.
2. Provide information for builders of new homes to consider planning in advance for an eventual secondary suite. The construction standard for all new SS's and ADUs must meet the BC Building Code (including Fire and Electrical code).
3. Establish a program for legalization of existing SS's and ADU's, and encourage homeowners to seek staff's assistance. This could include homeowners voluntarily "registering" their SS's or ADU's to initiate the process of working together to bring the unit up to an acceptable standard.
4. Offer incentives, such as a free inspection with advice on necessary upgrades to facilitate bringing existing SS's and ADU's into compliance with BC Building Code and Fire and Electrical code requirements.
5. Continue the policy of enforcement of unauthorized suites on a complaint driven basis. Where requirements cannot be met to legalize an existing SS or ADU, require that the additional dwelling unit be decommissioned and/or removed.

Draft Zoning Bylaw Amendments for Secondary Suites

1. A Secondary Suite is defined as a second dwelling unit on a property that is contained wholly within the principal dwelling.
2. Only one additional dwelling unit, a SS or an ADU is permitted per lot.
3. A SS must be wholly located within a principal dwelling.
4. A SS shall not have a total floor space of more than 90 m² in area or not more than 40% of the habitable floor space of the principal dwelling on a lot – whichever is less.
5. One additional on-site parking space is required for a SS.
6. VIHA requirements for sewage disposal and wells must be met by all new SS's. This may be seen as a more equitable determining factor than lot size.

Draft Zoning Bylaw Amendments for Accessory Dwelling Unit

1. An Accessory Dwelling Unit is defined as a second residential unit on a property that is contained within a separate garage or separate building.
2. Mobile homes, tiny homes and recreational vehicles are not permitted to be used as an ADU.
3. Only one additional dwelling unit, a SS or an ADU, is permitted per lot.
4. An ADU shall not have a total floor space of more than 90 m² in area or not more than 40% of the habitable floor space of the principal dwelling on a lot – whichever is less.
5. ADU's must meet the setbacks for principal dwellings on a property and shall not be located in a front yard.
6. ADU's shall not be greater than 6 metres in height.
7. One additional on-site parking space is required for an ADU.
8. Require buffering or screening where privacy – either of the ADU tenant or the adjacent property owner/user – may be considered an issue.
9. VIHA requirements for sewage disposal and wells must be met by all new ADUs.

APPENDIX B

INTEGRATED COMMUNITY SUSTAINABILITY PLAN: “Sustainable Highlands Decision Making Framework”

Please find attached the filled-in decision making framework form for Strategic Plan item: “Staff to provide a secondary suite policy by canvassing policies from comparable municipalities and develop a draft policy for consideration.” Table B-1 expands on section 1 in the form, stating each relevant Description of Success for ease of reference.

Table B-1
 (SS = secondary suite; ADU = accessory dwelling unit)

<i>In regards to...</i>	Strategy Area	Description of Success	Staff Comment
Main Descriptions of Success that the action moves us toward...	Building and Sites	#1 – “New residential, commercial, industrial and institutional development conforms to the long term vision of the community.” #8 – “There is housing in the community accessible for people of all abilities (physical and economic).”	<ul style="list-style-type: none"> • #1 would pertain to OCP policy 2.2 (24) • Social and human gains
	Healthy Community	#4 – “A broad range of housing options exists to support multiple generations and all income groups.” #2 – “The community is diverse, inclusive and respects and understands a broad spectrum of viewpoints.”	Social and human gains
Main Descriptions of Success that the action moves us away from...	Water and Waste	#4 – “The supply of potable water from local natural sources is maintained for future generations.”	Due to climate change...This will happen with or without SSs and ADUs
	Transportation and Mobility	#2 – “Roads are safe for pedestrians and cyclists.”	More people means more traffic...however, SSs and ADUs already exist

In regards to...	Strategy Area	Description of Success
Other Descriptions of Success to bear in mind...	Water and Waste	#5 – “Water could be conserved through minimizing use, enhancing water retention, rain water harvesting and use of grey water.”
	Energy	#2 – “Homes use significantly less energy. Conservation of energy is achieved through increased efficiency and life style choices.” #3 – ““Net-zero” energy, water and zero-waste is the standard for all developments.” #4 – “Energy systems are based on renewable sources and are efficient, clean and integrated.”
	Building and Sites	#2 – “New and renovated buildings use water and energy conservation measures, have low-impact design and are mostly built with sustainable materials.” #3 – “Scale of development and overall impact on natural areas has no net-negative environmental impact.”
	Land Use and Natural Areas	#1 – “Land uses support residential, employment, tourism and recreational activities, and are consistent with the rural character of the Highlands.”

- Secondary suites and residences move the District towards Description of Success in human and social aspects
- How secondary suites and residences are regulated can make a difference in whether the overall program moves the District towards or away from other Descriptions of Success.

Sustainable Highlands Decision Making Framework

An Integrated Community Sustainability Plan is the community's highest level policy and guides decision-making at all levels. Ultimately, the vision articulated in the ICSP is implemented through daily decision-making. Below is a worksheet that outlines four strategic questions to help assess any type of action, (plan, policy, project, research, procurement, practice new or old) by using the **Sustainable Highlands** sustainability framework to inform decision-making. For a more comprehensive and user-friendly version of this tool, visit the www.highlands.bc.ca/sustainability web page.

NAME OF PROPOSED ACTION AND BRIEF DESCRIPTION OF THE ACTION: "Staff to provide a secondary suite policy by canvassing policies from comparable municipalities and develop a draft policy for consideration."

DATE: November 21, 2017

REVIEWED BY: Laura Beckett

1

DOES THE ACTION MOVE HIGHLANDS TOWARDS OUR SHARED VISION OF SUCCESS?

Indicate the top **Sustainable Highlands** Strategy Areas that the action supports:

- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> 1. Buildings and Sites | <input type="checkbox"/> 2. Economy and Work | <input type="checkbox"/> 3. Education and Leisure |
| <input type="checkbox"/> 4. Energy | <input type="checkbox"/> 5. Food | <input checked="" type="checkbox"/> 6. Healthy Community |
| <input type="checkbox"/> 7. Land Use and Natural Areas | <input type="checkbox"/> 8. Transportation and Mobility | <input type="checkbox"/> 9. Water and Waste Systems |

Which main Descriptions of Success would the action move us toward?

Are there any Descriptions of Success that the action may move us away from?

1. Building and Sites - #1, #8	1. Water and Waste - #4
2. Healthy Communities - #4, #2	2. Transportation and Mobility - #2
3.	3.

How could we maximize the positive impacts of the action?

How could we avoid or minimize these potential negative impacts of the action?

1. Public outreach/engagement/provide information once decisions have been made	1. Water Conservation Measures
2.	2.
3.	3.

2 DOES THE ACTION MOVE HIGHLANDS TOWARD OUR SHARED SUSTAINABILITY OBJECTIVES?

To reduce and to eventually eliminate Highlands' contribution to:

	Toward Quickly	Toward Slowly	Neutral	Away	If 'away,' how could you avoid or minimize this?
 Ongoing build-up of substances (scarce metals, fossil fuels) taken from the earth's crust.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Minimize building size
 Ongoing build-up of toxic substances produced by society.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Minimize building size
 Ongoing degradation of natural systems by physical means.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Depends on how implemented
 Undermining the ability of people to meet their human needs.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

3 DOES THE ACTION PRESENT A FLEXIBLE PLATFORM FOR FURTHER MOVEMENT TOWARDS A SUSTAINABLE HIGHLANDS?

Eventually the Highlands will need to **eliminate** the contribution to the four unsustainable practices above. In general, choosing actions that are as flexible as possible will help you avoid dead end situations that might prevent you from reconciling short term tradeoffs and fully meeting your sustainability objectives. If technical or economic conditions change in the future, investments in flexible solutions will help ensure that these changes do not bring overly punitive costs and do not limit our ability to adapt.

Use the space to the right to indicate how your action incorporates long-term flexibility.

The action incorporates long-term flexibility by:

4 DOES THE ACTION PRESENT A GOOD FINANCIAL INVESTMENT?

	Capital: \$		Operating: \$/year	
What is the approximate cost of the action?	Unknown			
Does this action reduce long term operating costs/ have a strong return on investment?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
If so, what is the approximate associated pay-back period for the investment?	Years: Unknown			
Have non-market costs been considered in your decision making?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
Are there financial costs to other stakeholders or citizens from the implementation of this action?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No

Given your assessment of the benefits, challenges and long-term costs associated with this action, what is your level of comfort with moving forward?

<input type="checkbox"/>	Strongly support this action
<input checked="" type="checkbox"/>	Support in principle, but support will depend on how the action is executed
<input type="checkbox"/>	On the right track, but more information and/or substantial changes are required. Currently, not comfortable supporting this action.
<input type="checkbox"/>	The action as proposed is not supportable.

APPENDIX C

From Executive Summary of Phase 3: Groundwater Protection Study, District of Highlands, 2012, pp ii-iii

Numerical Model

Using data from the monitoring programs, Golder refined the numerical model that was developed during Phase 1 of the Study to simulate the seasonal variability observed in groundwater levels across the Highlands. The refined model was used to assess the sustainability of groundwater withdrawals under current and future conditions that included future development and the potential impacts of climate change. For the purpose of the numerical modelling, future development scenarios were developed based on future build-out estimates provided by the District. Although there is relatively high uncertainty regarding the potential impacts of climate change, longer summer drought conditions are generally anticipated for southern Vancouver Island, resulting in a decrease in groundwater recharge through less precipitation and increased evapotranspiration.

Transient model simulations were conducted to determine the water balance under current conditions and for four future build-out scenarios: full-build out with 20% secondary suites; full-build out with 50% secondary suites; full-build out with 20% secondary suites and impacts of climate change; and full-build out with 50% secondary suites and impacts of climate change. Predicted groundwater elevations at the end of the wet and dry seasons for the future scenarios were compared to the predicted water levels for the current conditions.

The results of the water balance analyses suggested that the simulated growth (full build-out) will not have a significant influence on the groundwater elevations in the Highlands, with little to no widespread differences to groundwater elevations were observed under Scenarios 1 and 2. At the end of the dry season, the decline to groundwater levels in the recharge areas at higher elevations of the western portion of the Highlands was predicted to be approximately 1 to 2 m compared to current conditions (the Base Case), with localized (i.e., small area) changes observed in the southwestern portion of the Highlands in the vicinity of the major groundwater users. The model simulations for future conditions suggested that the potential impacts of climate change could have a significant impact on average groundwater conditions within the Highlands. In Scenarios 3 and 4, the effects of climate change resulted in a general decrease in groundwater levels in the Highlands, particularly during the dry season. Groundwater levels at higher elevations were predicted to decrease 1 to 3 m by the end of the wet season when compared to the Base Case. At the end of the dry season, groundwater elevations were predicted to decrease on the order of 5 to 10 m at higher elevations, with localized decreases of up to 20 m, along the western and central portions of the Highlands when compared to current conditions. Less influence to water levels was observed in groundwater discharge areas at lower elevations.