



REPORT

TO: Lorraine Hilton
Chief Administrative Officer

Date: March 1, 2022
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FROM: Laura Beckett
Municipal Planner

To Council
March 7, 2022

RE: **SECONDARY SUITES AND ACCESSORY DWELLING UNITS**

PURPOSE

To inform Council of the status of the secondary suites and accessory dwelling units (ADUs) project, and seek direction regarding a version of the draft program for public review.

STRATEGIC PRIORITY

The subject of secondary suites and accessory dwelling units (ADUs) has been a Strategic Priority since the 2015-2018 Strategic Plan. It remains one of Council's priorities under implementation of the Climate Leadership Plan within the 2019-2022 Strategic Plan.

BACKGROUND

The attached, "Revised Schedule A – Council Direction at October 9, 2018 COW *Changes Highlighted in YELLOW*," shows the current status of Council's direction. It represents the culmination of three staff reports, discussion at three Council Meetings and two Committee of the Whole Meetings, as well as a public open house held in June 2018. Council previously directed that this version undergo an additional public review that has yet to occur.

Remaining Tasks

There are four other elements of the draft program outline that staff wishes to bring to Council's attention for consideration. These are discussed below and expressed in the attached, "Secondary Suites / Accessory Dwelling Units – *March 7, 2022 Suggested Changes*," highlighted in grey.

1. Owner occupancy: There are two possible ways for the District to require an owner to reside on the property where they are also renting a suite or ADU:
 - a) *Housing agreements*. This method would be very resource intensive, and would require ongoing resources to administer annual statutory declarations by property owners. A housing agreement would be required for each situation, and each housing agreement must be authorized by a bylaw process.
 - b) *Zoning bylaw regulations*. These may be more challenging to enforce than housing agreements, although possibly less onerous to administer.

Staff Comment:

It appears that many communities use zoning bylaw regulations to require owner occupancy. **Staff recommends that if owner occupancy is to be an element of the overall program, it be via zoning regulations.** At this time, staff recommends not using housing agreements as a way to require owner occupancy.

2. The draft policy element: "Permit ADUs in all zones where the principal use is residential and where a property has a minimum lot area of 5 acres or greater," is to be referred for further public input. The alternative to that policy element would be: "Permit ADUs in all zones where the principal use is residential."

Staff Comment:

- ADUs exist now on residential properties less than 5 acres in size. Continuing with the above draft policy element would limit compliance ability, thereby discouraging property owners from seeking compliance with life/safety requirements.
 - This particular policy element does not directly regulate life/safety matters; its original intention in the 1999 Housing Task Force Report was to limit the total number of ADUs.
 - **Staff recommends not setting a property size minimum for ADUs in order to achieve the project's primary goal of achieving life/safety compliant structures.**
3. An element of many other communities' programs is to include regulating that the secondary suite or ADU may not be created into an individual property, such as through the Strata Property Act. **Staff recommends that the policy outline include direction that any secondary suite or ADU not be stratified as per the *Strata Property Act* or otherwise subdivided.**
 4. Item #4 under 'Draft Zoning Bylaw Amendments for Secondary Suites' states: "A SS shall not have a total floor space of more than 90m² in area or not more than 40% of the habitable floor space of the principal dwelling on a lot – whichever is less." The reference to 40% of the habitable floor space represents BC Building Code requirements related to different building standards. BC Building Code requirements will be followed whether this expression is in the Zoning Bylaw or not. Its presence in the Zoning Bylaw has a risk of encouraging larger homes. Because Highlands' policies encourage smaller buildings, **staff recommends changing the phrase to read, "A SS shall not have a total floor space of more than 90m² in area."**

Item #5 of the Draft Policy/Program Outline is as follows: "Establish a program for legalization of existing secondary suites and additional dwelling units, and encourage homeowners to seek staff's assistance. This could include homeowners voluntarily "registering" their secondary suite or additional dwelling unit to initiate the process of working together to bring the unit up to an acceptable standard." If/when regulations are changed to allow for secondary suites and ADUs, any existing units that do not conform would be considered unlawful and could be the subject for bylaw enforcement. In the absence of a program for legalizing existing units, item #6 of the Draft Policy/Program Outline would be the default action: "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." What this means in practice is that staff would work with individual property owners to bring their property into bylaw compliance. This is expected to inherently require additional resources. **Staff seeks no direction at this time for this element, and only wishes to draw to Council's attention the expectation of required additional resources.** Experience with the program over time will indicate what additional resources, including those related to bylaw enforcement, are needed.

OPTIONS

The next step in the process is for Council to choose a version of the draft program outline to provide for a final public review. Options include one of the two versions attached, or a third version that Council may wish to direct staff to put together using the existing elements from the two provided versions.

The following options are for Council's consideration:

1. Staff be directed to provide the document entitled, "Secondary Suites / Accessory Dwelling Units – March 7, 2022 Suggested Changes," for public review, and further that the results of the public review be returned to Council.
2. Staff be directed to provide the document entitled, "Revised Schedule A – Council Direction at October 9, 2018 COW Changes Highlighted in **YELLOW**," for public review, and further that the results of the public review be returned to Council.
3. An alternative version using existing elements from Options 1 and 2 be provided for staff to consolidate into a draft program outline for public review, and further that the result of the public review be returned to Council.
4. This report be received for information.

CONCLUSION

The secondary suites and accessory dwelling units draft policy/program requires Council direction prior to a final public review of this stage of the project. The results of that review would return to Council with any recommended changes to the draft policy/program along with a request for direction to draft bylaw amendments and any companion policy(ies).

RECOMMENDATION

That staff be directed to provide the document entitled, "Secondary Suites / Accessory Dwelling Units – March 7, 2022 Suggested Changes," for public review, and further that the results of the public review be returned to Council.

Respectfully submitted,

Concurrence



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Municipal Planner

Lorraine Hilton,
Chief Administrative Officer

Attachments:

- Option 1: Revised "Schedule A" – Council Direction at October 9, 2018 COW – *Changes Highlighted in YELLOW*
- Option 2: Secondary Suites / Accessory Dwelling Units – *March 7, 2022 Suggested Changes*

Links to Previous Related Work:

The District's Secondary Suites and Accessory Dwelling Units Project is summarized at this web page: <https://www.highlands.ca/500/Secondary-Suites-and-Accessory-Dwelling->.

For ease of reference:

Staff Reports:

- December 4, 2017: <https://www.highlands.ca/AgendaCenter/ViewFile/Item/3838?fileID=4545>
- April 16, 2018: <https://www.highlands.ca/AgendaCenter/ViewFile/Item/4140?fileID=4694>
- September 17, 2018: <https://www.highlands.ca/AgendaCenter/ViewFile/Item/4429?fileID=4826>

Council and Committee of the Whole Minutes:

- December 4, 2017: <https://www.highlands.ca/AgendaCenter/ViewFile/Minutes/12042017-396>
- April 16, 2018: <https://www.highlands.ca/AgendaCenter/ViewFile/Minutes/04162018-418>
- September 17, 2018: <https://www.highlands.ca/AgendaCenter/ViewFile/Minutes/09172018-436>
- October 9, 2018: <https://www.highlands.ca/AgendaCenter/ViewFile/Minutes/10092018-439>

Additional Council direction carried out:

- Island Health Presentation, March 11, 2019:
<https://www.highlands.ca/AgendaCenter/ViewFile/Item/4855?fileID=5023>
Minutes: March 11, 2019: <https://www.highlands.ca/AgendaCenter/ViewFile/Minutes/03112019-468>
- BC Assessment Presentation, April 1, 2019:
<https://www.highlands.ca/AgendaCenter/ViewFile/Item/4921?fileID=5053>
Minutes: April 1, 2019: <https://www.highlands.ca/AgendaCenter/ViewFile/Minutes/04012019-474>