

April 21, 2016

Worship Mayor Nenshi and Members of Calgary City Council
City of Calgary
700 Macleod Trail S.E.
Calgary, Alberta T2G 2M3

Dear Mayor Nenshi and City Councillors:

Re: Secondary Suite - Land Use Bylaw Amendments 23P2016 (CPC M-2016-004)

Background

At the heart of the secondary suites debate lies a certain level of skepticism and mistrust by homeowners. When a Motion to rezone Wards 7, 8, 9 and 11 was brought forward in 2015, a group called NOT4RZ (Not For Rezoning) was formed to oppose this. We heard from many homeowners and received many emails, and some common themes emerged.

Most homeowners, including those in our group, were not opposed to secondary suites provided the homeowner lived in the home and provided that parking, maintenance and tenant behaviour were not an issue. In other words, what we heard is that homeowners did not want to be adversely affected by a suite next to them. Essentially, if the property owner had a small suite in his basement and controlled the situation, many people were not opposed in principle.

However, the reality was that most homeowners we heard from recounted stories of bad situations and little enforcement, so that they had no choice but to want to prevent suites in an area not zoned to allow them. Another common theme was that through their own experiences, homeowners were unconvinced By-law enforcement would actually “do something” about a bad suite situation.

(As an example of Calgary’s poor by-law enforcement, some residents on my street recently reported an illegal suite in the house for sale next to them. The realtor advertised the home as having two separate units to rent out, and photos clearly showed two separate kitchens. A complaint was filed with 311, subsequently the owner removed a stove from the house, the bylaw official came by, and his report stated:

“I inspected last week and found all lower cooking facilities had been removed. The owners did have friends staying downstairs but were going to share the main floor kitchen. As a result the complaint has been closed.”
No stove, no suite, case closed.)

Until we see licensing or proper enforcement in place, we should not make things any easier for uncaring or unscrupulous landlords or investors.

Those opposed to secondary suites just want some assurances that “bad” suites will be dealt with effectively. They are not opposed to the idealic scenarios the City paints on its promotion of secondary suites: situations that provide “accommodations for elderly parents, disabled family members or children” or that “allow seniors to remain in their home and community while on a fixed income”.

They just want to know what they will be getting if the home next to them applies for a secondary suite.

Why then would the City actually try to increase the ambiguity around second suites?

Clarity

Within the last year, the City has changed the wording on all applications for rezoning that come before Council.

WHY?

Compare these two sections of the administration report that is part of each application. The underlined sentence in the second version has been added.

This is a randomly-chosen secondary suite application from May 15, 2015, the day of the Wards 7, 8, 9, and 11 Council meeting.

LAND USE DISTRICTS

The proposed R-C1s district allows for the development of a secondary suite in addition to a Single Detached Dwelling on a single parcel. The R-C1s district allows for one additional secondary suite that may take one of the following two forms:

Secondary Suite as a permitted use; or

Backyard Suite as a discretionary use.

The proposed R-C1s district is appropriate and complimentary to the established land use pattern of the area and allows for a more efficient use of the land. In addition, the development of a secondary suite on this site can meet intent of Land Use Bylaw 1P2007.

This is a randomly-chosen secondary suite application from April 11, 2016, the day 21 out of 26 suite applications were approved.

LAND USE DISTRICTS

The proposed Residential – Contextual One Dwelling (R-C1s) District allows for the development of a secondary suite on a parcel containing a single detached dwelling. The suite may take one of the following two types:

Secondary suite as a permitted use (located within the main residential building and secondary to the main residential use)

Backyard suite as a discretionary use (located in a detached building located behind the front facade of the main residential building and secondary to the main residential use)

Approval of this land use application does not constitute approval of a specific secondary suite type, but rather it allows for a secondary suite to be considered via the development or building permit process.

The City doesn't care what kind of suite you build. You can apply for one kind and then build another.

Most homeowners do not know about this. They assume that a secondary suite is located in a basement, and if they have heard of laneway or garage suites, they assume they would find out if the neighbor applies to build one. Not necessarily. An applicant can apply for a basement suite and later already has the rezoning in place for a (discretionary) backyard or garage suite.

M-2016-004 and Size of Suite

The proposed increase in allowable maximum size to 100 sqm (up from 70 for basements and 75 for backyard / laneway / garage) is of concern to me for two reasons.

- 1. It increases the potential size of suites and the number of tenants that can reside within a suite.**
- 2. A rezoning approval does not specify what type of secondary suite will be built.**

Size of Suite

The original intent as it was mentioned in the SPC on Planning and Urban Development meeting that I attended at City Hall was that it seemed almost counter-intuitive to not allow a secondary suite in a basement that was over 750 sq. ft. because it was actually too large. Why should a homeowner have to block off part of a basement or not be eligible if they have 900 or 1000 sq. feet of available space? In an existing basement, it seems reasonable to allow for somewhat more than 70 sqm on those grounds. Many jurisdictions allow for a maximum of 90 sqm, but all do have a maximum size. A suite should be truly “secondary” to the main home.

It is one thing to allow for an existing basement to be converted into a suite, and another for an investor to build a new house with a maximum-sized suite created for the purpose of renting out two separate living spaces. At what point does this essentially become more like a duplex?

While I would have preferred 90 sqm to 100 sqm, what I strongly disagree with it is that the 100 sqm can also be a separate building entirely, like a backyard, laneway or garage suite, **and that your application for rezoning does not have to specify which one.**

Type of suite needs to be specified on the original application for rezoning

If the allowable suite area is raised to 100 sqm, this creates some new potential concerns.

1. An investor can apply for the easiest, most-likely approved suite. He can apply to build a basement suite for his elderly relative or other family member. Neighbors are unlikely to object (at least not in mass), the CA would likely be okay with it, and Council approves over 80% of them anyway.
2. Once he has the rezoning, he can change his mind or intent, or he can sell the house, and because the zoning is already in place, he could submit a DP to build a backyard suite or a garage suite. Neighbors have lost their chance to object. Yes, it would be discretionary, but that means virtually nothing. Neighbors could maybe fight the window placement of your garage suite, but they likely wouldn't be able to prevent it from being built. A discretionary DP could also be appealed at the SDAB, but again, it involves a lot of time and energy to fight against the DP.

The same neighbors who agreed to a basement suite could find themselves fighting against a garage suite they would have opposed if that had been the original application. There is a huge difference between a basement suite that is invisible to neighbors and a two-storey garage suite or a backyard suite that involves cutting down trees and building another house in the backyard.

The purpose of a DP or a rezoning application is for neighbors to have a chance to provide their input BEFORE anything happens. But, how can they do that if they don't know what is proposed? Essentially, the applicant is indicating he'd like to build something, but he just hasn't confirmed what yet. It might be a few rooms in his basement, or it might be an entirely new 2-storey building in his backyard.

3. When the limit was 75 sqm for a separate structure, the building would still have been a relatively small structure, likely only one bedroom, likely intended for a single occupant. For an investor, it would be an expensive build for such a limited number of tenants.
4. If the limit is now 100 sqm, this becomes a lot more viable economically because essentially you are creating another house. An ad from this week's CREB real estate newspaper showed many homes in my area that are just over 1070 sq. ft. (about 100 sqm). So essentially, an applicant can now build another full house in the backyard of an existing one (still subject to 45% lot coverage, building code, etc.).

5. The 100 sqm building opportunity will attract investors in ways that a 75 sqm did not. A quick search found this: <http://hayeshomes.ca/?p=421> (bold emphasis and underlining mine).

Hayes Homes is a real estate company helping people take advantage of great investment opportunities. We invest in single and multi-family homes in Calgary, Alberta. Our experienced team finds cash flowing properties in great neighbourhoods that we purchase, renovate if required, and rent to quality tenants.

How a Sophisticated Investor can Take Advantage of This?

If you own a secondary suite that is illegal, now is the time to legalize it especially if it has existed prior to 2007.

The process to legalize a secondary suite has never been this easy. The city only has this program slotted for 18 months. We do not know if they will keep it around after that.

If you are looking at purchasing a property and installing a secondary suite, the permit process has never been this fast. This means you can start renovating immediately and cut down on vacancy costs. Tenants will be looking for safe suites and potentially reporting suites that are not legal. It will now be very easy to tell if a suite is legal or not.

Having a safe and/or legal suite will reduce your exposure to liability and potential fines. If your suite does not meet zoning requirements, you can still make sure your suite meets the fire code. **You also have the opportunity to rezone the property to a permitted use for a secondary suite. Rezoning applications are now free and 87% of the requests are successful.**

6. If companies or realtors are promoting this, investors will take advantage of it. If an investor can now buy a house to rent and even build a second house on the same property, they will do so. The existing maximum 70 sqm would have allowed only a home of about 700 sq. feet. It is expensive to build a separate house if it can only be about 700 sq.ft., but if you make it 1070 sq.ft., it all of a sudden provides the investor with much greater incentive to go ahead. That is the size of most of the bungalow homes in my area.

This was never the intent, but investors will take advantage of this.

Solutions:

1. **The 100 sqm maximum should be allowed only if below grade. No increases in size for laneway, garage or backyard suites.**

This was the original intent – to allow an applicant to develop his basement into a suite, even if it is larger than 70 sqm. The intent was never to allow for extra-large second homes above ground.

Keep the existing 70 or 75 sqm maximums for any structures above grade. This is already larger than what Edmonton allows.

Edmonton allows a maximum size of 60 sqm for above ground garage suites and 50 sqm for Garden or Garage at Grade.

http://www.edmonton.ca/city_government/documents/PDF/Nov2009SecondarySuitesSummaryTable.pdf

Garage Suite (above Grade)	Minimum: 30 m ² Maximum: 60 m ² May be increased by up to 7.5 m ² only where additional amount is used for a Platform Structure associated with the Garage Suite
Suite Size Garden Suite Garage Suite (at Grade)	Minimum: 30 m ² : 50 m ² , excluding Garage portion of the building if a 1 st Storey (at Grade) Garage Suite. May be increased by up to 7.5 m ² only where additional amount is used for a Platform Structure associated with the Garage or Garden Suite.

2. **There needs to be a specific designation on a suite application.** The change of land use for a secondary suite must specify what type of suite it will be: basement, laneway, garage or backyard.

An R-C1s designation should not give the applicant free choice as to what he wants to build: he must build only the type he applied for originally. Neighbors must have the opportunity to know and comment on what will be built next to time BEFORE the land use redesignation (and not only after that at a discretionary DP stage). The type you apply for is the only type you should be allowed to build. Neighbors must know what the likely outcome is so they can comment on that specific situation.

It should be like a DP or a BP in that regard: they specify exactly what you can build. I can't apply for a BP for a fireplace and decide to build a retaining wall instead. I can't tell the neighbors my DP is for a garage when I really intend to build a skateboard ramp out the front. You can't change your mind or intent without a totally new application.

Please consider these amendments to the existing proposal.

Sincerely,

Melanie Swailes
Calgary, Alberta