



Regional Board Report

For the Public Hearing January 27, 2020

TO: Regional Board

FROM: Todd Cashin
Director of Community Services

DATE: January 27, 2020

SUBJECT: Text Amendments to Joe Rich Rural Land Use Bylaw No. 1195, 2007
Joe Rich Rural Land Use Amendment Bylaw No. 1195-22

Purpose: To amend secondary suite regulations in Joe Rich Rural Land Use Bylaw No. 1195.

Executive Summary:

In 2017, staff began a policy review of secondary suite regulations in the Central Okanagan Electoral Areas. During the review process, it was identified that increasing density by permitting secondary suites in all residential land use designations may cause drainage and slope stability challenges, particularly in areas without access to community sewer and without proper drainage plans.

Following extensive analysis and review, Planning Services staff is recommending the current process of requiring a land use designation amendment remain in place which will have the Regional Board making informed decisions on a site-specific, case by case basis. Furthermore, several recommended changes to Zoning Bylaw No. 871 will reflect recent updates to the B.C. Building Code with respect to design and construction requirements for secondary suites.

Respectfully Submitted:

A handwritten signature in black ink, appearing to read "Todd Cashin".

Todd Cashin
Director of Community Services

Approved for Board's Consideration

A handwritten signature in black ink, appearing to read "Brian Reardon".

Brian Reardon, CAO

Prepared by: Brittany Lange, Environmental Planner

Background:

In 2016, the Regional Board directed staff to review secondary suite regulations to consider allowing secondary suites by policy rather than through bylaw amendments, and to establish regional consistency. As such, in 2017 Planning staff embarked on a policy review of secondary suites in the Central Okanagan Electoral Areas. Subsequently, staff engaged with the public by attending community events, conducting an online survey, and making information available at the Planning Services front counter to gauge the public's opinion on proposed regulatory changes.

Upon review of the information received during this process, issues were raised regarding drainage and servicing, most notably with the number of small, undeveloped lots in the Electoral Areas. Secondary suites, which are self-contained and located within an existing single family dwelling, have always been considered acceptable to tie into the primary septic field assuming that the field is sized appropriately, and with proper maintenance and treatment. However, recognizing the rural nature of the Electoral Areas and minimal servicing, increasing density in all residential zones may not be appropriate and may cause a significant strain on servicing and the environment.

On November 25, 2019, the Regional Board granted first reading of the amendment bylaws for secondary suites and recommended that staff move forward with a public hearing.

Timeline

2017	2018	January 2019	April 2019	May 2019	November 2019	January 2020
<ul style="list-style-type: none"> • Staff began policy review and referral • Project delayed due to flooding and fire emergencies 	<ul style="list-style-type: none"> • Staff continued with policy review • Re-referral to RDCO Departments and External Agencies 	<ul style="list-style-type: none"> • Staff brought forward summary of policy review • Staff proceeded with a technical stakeholder review 	<ul style="list-style-type: none"> • Staff brought forward summary of technical review process and recommended policy changes 	<ul style="list-style-type: none"> • Staff brought forward 1st reading of the amendment bylaw • Moratorium on secondary suite applications 	<ul style="list-style-type: none"> • Staff brought application back for 1st reading of the amendment bylaw due to changes in the B.C. Building Code. 	<ul style="list-style-type: none"> • Public Hearing of the proposed bylaw amendments

Rural Land Use Bylaw Amendment Proposals

Following extensive analysis, research, and careful consideration of the comments received to date, staff is recommending the following key changes to secondary suite regulations:

Item 1: To continue to require an amendment under the Joe Rich Rural Land Use Bylaw No. 1195 for LH, RA, SH-1, SH-2, and CR land use designations to permit a secondary suite and add the 's' designation.

- Rationale: The bylaw amendment/redesignation process allows the Regional District to consider secondary suites on a site specific, case by case basis.

Item 2: Removing any limit to total floor area or percentage distribution of the secondary suite to the principal building.

- Rationale: The Ministry of Municipal Affairs and Housing has adopted changes to the current B.C. Building Code that will impact land use planning decisions (See Appendix 'A'). To align with the provincially legislated changes, Planning staff recommends removing limits to the size of a secondary suite.

Item 3: Define '*breezeway*', '*carport*', '*private water source*', and '*on-site sewerage system*'.

- Rationale: Connecting a secondary suite to a principal dwelling via an open, unenclosed space is seen as a form of subdivision and is not consistent with the Okanagan Basin Water Board's 1.0 hectare policy, or the B.C. Building Code. To avoid ambiguity going forward, *breezeway* and *carport* will be defined to clarify what 'located within a single detached house' means and ensure secondary suites constitute a single real estate entity.
- In addition, '*private water source*' and '*on-site sewerage system*' are defined to ensure consistency with the RDCO Subdivision Servicing Bylaw No. 1397 and the Provincial *Sewerage System Regulation*.

Item 4: To allow only one secondary suite or one additional dwelling unit per parcel, where land use permits.

- Rationale: Currently, a single parcel of land that equals or exceeds 8 hectares is permitted to have one single family dwelling with a secondary suite (amended to the 's' designation) as well as one additional dwelling unit subject to further regulations under Part 3 – Section 3.13 of Bylaw No. 1195. To be consistent with surrounding jurisdictions and to minimize environmental impacts, staff is proposing that only one suite or one additional dwelling unit be permitted where land use and parcel size permit.

Item 5: To require that new and existing on-site sewerage systems demonstrate compliance with today's standards and include a primary reserve area for a back-up Type I trench system.

- Rationale: Technical stakeholders, including Interior Health Authority, local hydrogeologists, groundwater technicians, and onsite wastewater practitioners all agreed that stronger regulations are needed regarding on-site sewerage systems. Given this, it was recommended that new and existing septic systems are reviewed to ensure compliance with today's standards and can sufficiently accommodate the increased density of adding a secondary dwelling.

Furthermore, several of the existing secondary suite regulations will remain in force, such as continuing to prohibit the use of secondary suites as short-term rentals and continue to recognize parcels with the 's' designation.

Okanagan Basin Water Board (OBWB)

The OBWB Sewage Facilities Assistance grant program was established to subsidize construction of tertiary sewage treatment plants for local governments. The intention of the policy and program is to decrease water pollution coming from development on small lots and failing or over-capacity septic systems, and reduce the amount of phosphorus entering the lakes from municipal effluent.

To be eligible for the grant, local governments are required to have zoning policies or bylaws prohibiting new development on lots less than one hectare that are not serviced by community sewer. As per the grant program terms of reference:

- Secondary suites are permitted so long as they tie into the sewage disposal system of the existing dwelling; and,
- Carriage houses / additional dwelling units are prohibited on properties less than 1.0 hectare and not connected to community sewer.

Regional Board Strategic Priorities 2019-2022

Granting first reading to the amendment bylaw complies with the following policies of the Regional Board Strategic Priorities:

Transportation and Mobility

- Promote transportation and land use approaches that reduce our collective reliance on cars.

Sustainable Communities

- Develop best practices to encourage housing innovation and the adoption of sustainable building standards.

Environment

- Support efforts to reduce our environmental footprint and adapt to climate change.

Regional Growth Strategy Bylaw No. 1336

Granting first reading to the amendment bylaw complies with the following policies of the RGS:

Our Water

- Consider water resources in land use planning decisions.

Our Housing

- Preserve and enhance existing neighbourhoods through encouragement of a variety of housing types, densities and affordability.

Our Health

- Support Interior Health in efforts to explore opportunities to develop healthy community strategies.

Our Land

- Support logical and sequential growth patterns that minimize urban encroachment into rural areas.
- Proposals for new growth areas should consider the impacts on existing services and facilities in the community.

Our Economy

- Support effectively managing and protecting the integrity of the Region's critical assets such as the lakes, natural environment and agricultural lands that promote attraction of employment and investment.

Our Ecosystems

- Manage growth to minimize disturbance to habitat, watershed and natural drainage areas and systems.

Joe Rich Rural Land Use Bylaw No. 1195

Granting first reading to the amendment bylaw complies with the following policies in Section 4 of the Joe Rich Rural Land Use Bylaw:

- Ensure that all development has an adequate water supply that does not adversely affect water supplies of existing lands, and that suitable means of sewage disposal are available that does not adversely affect adjoining lands;
- Set aside land for rural residential use, provided that the natural character is maintained, and provided that overall water supplies and sewage disposal are adequate, and site conditions are respected;
- Consider slope, soil stability, natural hazards, water supply, sewage disposal capability and road access in designating rural lands for residential use;
- Require, for rural lands for residential use, the development of water supplies and sewage disposal adequate for the long term, which will not adversely affect neighbouring lands or community water supplies;
- Require that applications for a change in land use designation include a detailed environmental review that considers conditions and future environmental impacts both on the property under application and the surrounding area. Development should avoid sensitive areas and be designed to retain important ecosystem feature and functions. Responsiveness to this information will be a very important consideration in the approval of an application;
- Protect the drinking water quality and quantity in the community when considering additional uses or development; and,
- Continue to protect Environmentally Sensitive Areas on private land through the development permit, rezoning, and subdivision processes.

RDCO TECHNICAL COMMENTS (Presented at First Reading):

Planning Services staff acknowledges that secondary suites are recognized as an appropriate form of infill housing that provides affordable rental/housing options without a significant impact on the character of a neighbourhood.

In the past, the Regional Board has generally supported secondary suites where a landowner demonstrates that all technical issues will be addressed, and where there are no significant objections from neighbouring landowners. However, Planning staff strongly encourages settlement and housing in areas with existing services and infrastructure in order to support logical and sequential growth patterns and limit impacts to infrastructure and the environment.

Planning staff note that local government plays an important role in the creation of affordable housing through policy, zoning, partnerships, and staff support. While secondary suites are intended to be used as living accommodation based on rental periods of one month or greater and are one significant example of private rental housing, they are also prime candidates for AirBNB and short-terms rentals which do not contribute to the need to secure long-term rental housing¹.

¹ RDCO Regional Housing Needs Assessment, 2019

Furthermore, Planning staff continues to promote long-term sustainability within the region. It is important that land use planning and development activities avoid sensitive areas and be designed to retain important ecosystem features, functions, and connectivity as well as protects hillsides and minimizes damage to surrounding parcels.

Prior to the issuance of a Building Permit, development proposals must ensure that drainage, topography, and natural features are considered as this may require Development Permit approval. Proposals should be assessed on a site-by-site basis to ensure that existing and future servicing as well as development suitability of land is adequately addressed.

Inspections Services staff note that recent changes to secondary suite requirements in the B.C. Building Code will provide a higher level of health and safety as well as make it easier for residents wishing to construct a secondary suite. Furthermore, defining 'breezeway' and 'carport' will provide additional clarification to homeowners wishing to construct or legalize a secondary suite.

Corporate Services staff advises that the number of complaints from residents related to illegal/legal secondary suites is minimal and that there are no foreseeable issues with the proposed bylaw amendments.

Environmental Services staff advise that all secondary suites should meet minimum servicing requirements with respect to water and community sewer or on-site sewerage disposal. As such, adequate water and wastewater servicing must be in place to accommodate a secondary suite. Furthermore, onsite parking, access, and additional traffic loading within the community should be reviewed and addressed.

Fire Services staff support the amendment bylaw. The recent changes to secondary suite requirements in the B.C. Building Code will provide a higher level of fire safety and are intended to moderate risks attributed to fire load and occupant load.

RDCO TECHNICAL COMMENTS (Subsequent to First Reading):

Environmental Advisory Commission members support Joe Rich Rural Land Use Amendment Bylaw No. 1195-22.

Anecdotal Comments:

- Requiring sufficient room on the property for a back-up type 1 trench system will influence the minimum parcel size required to accommodate a suite.

AGENCY REFERRAL COMMENTS:

Interior Health Authority (IHA) staff has been involved extensively throughout the RDCO secondary suite policy review process, and provide the following comments:

- IHA staff are aware of failing septic systems throughout the region on parcels with secondary suites;
- IHA staff acknowledge that many neighbourhoods, when not serviced by sanitary sewer, have old septic systems that were designed originally for a single family dwelling (i.e. not multiple families in one dwelling) and many systems are approaching the end of their lifespan;

- IHA staff recommend that new and existing on-site sewerage systems demonstrate compliance with today's standards and include a primary reserve area on the parcel for a back-up Type I trench system; and,
- Recommend establishing a requirement test for radon gas prior to tenant occupancy to protect the secondary suite tenants and primary residents.

Okanagan Basin Water Board staff approve of the recommended bylaw amendments as it is consistent with their Sewage Facilities Assistance Grants Program.

Ministry of Municipal Affairs and Housing staff had no objections to the proposal and commended RDCO staff for the extensive referral and consultation process to date. The Ministry further recommends continuing with an open and transparent dialogue with all stakeholders regarding the proposed zoning amendment bylaws.

Ministry of Agriculture staff indicated that accumulative residential uses on the Agricultural Land Reserve (ALR) and other farmland may potentially restrict agricultural activity or impact farm practices. Minimising the impact of residential uses plays a critical role in supporting agriculture. As such, permitting secondary suites on the ALR and local government agricultural zones may increase the principal dwelling's total floor area or its farm residential footprint.

Further to the recent changes to the *Agricultural Land Commission Act* under Bill 52, the RDCO may wish to consider regulatory options that limit the impact of residential uses on the ALR such as limiting footprint sizes and siting requirements. It was also noted that secondary suites in the ALR comply with the Agricultural Land Commission's Policy L-08.

Ministry of Transportation and Infrastructure staff granted Preliminary Approval for the bylaw amendments for one (1) year, and advise that the bylaws must be forwarded to the Ministry for signature after they have achieved 3rd reading.

Glenmore Ellison Improvement District staff advise that water rates in the Ellison area are subject to change and it is recommended that property owners coordinate the installation of a water meter during the construction of a secondary dwelling unit to allow for possible reductions in water billings in the future.

Westbank First Nation Chief and Council provided consent to the proposed bylaw amendment.

Fortis B.C. staff advise that primary distribution lines within and along public roads and lands servicing the Central Okanagan Electoral Areas. Future applicants seeking land use changes stemming from the proposed bylaw amendments are responsible for the costs associated with any change to the existing service, if any, as well as provision of appropriate land rights where required.

Unaffected RDCO Departments include Parks Services.

Unaffected Agencies include the Ministry of Forests, Lands, Natural Resource Operations, and Rural Development, Ministry of Environment and Climate Change Strategy, District of Lake Country, B.C. Hydro, Shaw Cable, Telus, Agricultural Land Commission, City of Kelowna, City of West Kelowna, District of Peachland, Black Mountain Irrigation District, Glenmore Ellison Improvement District, and Okanagan Indian Band.

External Implications:

Newspaper notices advertising the Public Hearing and proposed amendments were printed in the Kelowna Capital News (two consecutive days), the Peachland View and the Vernon Morning Star. In accordance with the *Local Government Act*, since more than 10 properties owned by 10 different people is involved with the proposed bylaw amendments the 500 metre notification to surrounding property owners is not required.

At time of writing this report, no letters of opposition have been received.

Conclusion:

Should the Regional Board close the Public Hearing, the application will come forward with a separate report for Board consideration of further readings to the bylaw amendments.

Attachment(s):

- Land Use Bylaw Amendment No. 1195-22
- Appendix 'A' - Bulletin No. B19-05