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To Hornby Island Local Trust Committee: Tim, Alex and Grant:

For interest, attached is a paper I wrote 15 years ago - which may still be of some use and relevance today.

Tony



**Hornby Island Community
Economic Enhancement Corporation**

AN *act* PROJECT

SECONDARY ACCOMMODATION UNITS:

**A HOUSING OPTION FOR GULF ISLANDS
AND OTHER SMALL COMMUNITIES**

JANUARY 2008

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CONTENTS

Preface	3
Disclaimer	3
Acknowledgements	3
Executive Summary	4
CONSIDERING SECONDARY ACCOMMODATION UNITS	
- Introduction	5
- Community context	5
- Benefits	7
- Barriers	9
- Issues	9
ENABLING SECONDARY ACCOMMODATION UNITS	
- Community consultation	10
- Policy	10
- Regulatory framework	12
- Regulations	14
- Compliance	18
- Information and Education	19
- Uptake	19
APPENDICES	
I. Relevant legislation	20
II. Some approaches	22
III. The Whistler experience	23
IV. Reports and Studies	26

PREFACE

The project documented in this report received an Affordability and Choice Today (ACT) grant. ACT is a housing regulatory reform initiative delivered in partnership by the Federation of Canadian Municipalities (ACT administrator), Canada Mortgage and Housing Corporation (ACT funder), the Canadian Home Builders' Association, and the Canadian Housing and Renewal Association.

ACT, launched in 1990, encourages housing affordability and choice through regulatory reform. The United Nations Centre for Human Settlements recognized ACT in 1998 as one of the top global best practices for improving the living environment.

Over the years, ACT has created an impressive body of knowledge others can use to facilitate regulatory change in their communities. Projects range from innovative housing forms, secondary suites and streamlined approval procedures to NIMBY, alternative development and renovation standards, and more. ACT projects contribute in many ways to sustainable development. They have also served to enhance working relationships between local governments, the building industry and non-profit organizations.

In summary, ACT promotes regulatory reform through

- its database of solutions, which others may borrow from and adapt freely to meet their needs (see Web site address below).
- grants to local governments, builders, developers, architects, non-profit organizations and others across Canada to help facilitate the development of innovative solutions;
- other means of promoting regulatory solutions, such as workshops that highlight ACT solutions and address specific regulatory barriers.

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DISCLAIMER

This project was partially funded by ACT. The contents, views and editorial quality of this report are the responsibility of the author, and ACT and its partners accept no responsibility for them or any consequences arising from the reader's use of the information, materials or techniques described herein.

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Ed Hoeppner, Principal, Aquarian Systems Inc.

In particular, Tim Wake prepared a report on the Whistler experience and Deborah Curran, David Marlor, John Rowse and Ed Hoeppner participated in a technical workshop, as did Ron Emerson, Hornby Island Local Trustee. Ed Hoeppner, Ron Emerson and Ron Sitter (President of the Hornby Island Residents' and Ratepayers' Association) were involved in planning this project.

Tony Law (HICEEC), project co-ordinator – January 2008

EXECUTIVE SUMMARY

In the Islands Trust Area, 46% renters are in core housing need, more than three times the rate for all Canadians (13.7%).

At a conference on *Housing Solutions for Small Communities* in April 2007, a panel proposed secondary accommodation units as an important way to provide immediate housing opportunities. At the same time, concerns were expressed about the potential impacts of increasing density.

While secondary suites are being legalized in many urban communities, different circumstances are faced on islands and in other small communities. Units can take a wider range of forms and considerations include water supply, sewage treatment and maintaining rural character.

Following up on the conference, the Hornby Island Community Economic Enhancement Corporation received an *ACT* grant to address the regulatory framework for enabling secondary accommodation units on Hornby Island. A Hornby-specific report was prepared. This report addresses the same subject but in a more general way.

When considering whether and how to enable secondary accommodation units it is necessary to examine the community context, the benefits of such units, the barriers and the particular issues identified in order to determine the appropriate regulatory approach.

Good community consultation is important as the proposed introduction of secondary accommodation units is often met by concerns and fears.

Provincial legislation provides a small range of options for enabling secondary units. It is important to balance the need to address concerns with the need to avoid undue disincentives

Judicious use of zoning regulations can address many of the issues that are likely to come up. It is hard to address water supply through zoning regulations, though it may be possible to require water storage or even rainwater catchment systems. Areas that are known to have a particular problem with water supply may need to be excluded from having secondary units permitted.

Standard practices for sewerage systems require that a secondary suite (or similar unit) be considered as a separate residence with respect to provision for minimum daily design flow rates. Providing the required treatment capacity could be an obstacle for landowners considering establishing secondary accommodation units.

Permitting secondary accommodation units should be preceded by regulations to address short term vacation rentals. Concerns about enforcement could be addressed through introducing municipal ticketing.

Regulations could be accompanied by the provision of information on the zoning regulations, health regulations, best practices, building options and funding sources.

There are examples in British Columbia of communities that have taken a range of approaches in enabling secondary accommodation.

CONSIDERING SECONDARY ACCOMMODATION UNITS

INTRODUCTION

A conference on *Housing Solutions for Small Communities* was held on Hornby Island in April 2007. It was attended by 110 people from 30 communities and involved 24 presenters. The conference included a panel discussion on Secondary Accommodation Units. There was a consensus among the presenters that enabling such units is an important way to provide immediate housing opportunities in small communities. At the same time, concerns were expressed about the potential impacts of increasing density.

In 2003, a report prepared for the Islands Trust on *Affordable Housing Options* identified secondary suites and cottages as “the most readily available and inexpensive source of rental housing”. However, there has been limited adoption of this solution in the Trust Area.

Secondary accommodation units (such as basement suites in urban areas or cabins/trailers in rural areas) are a significant source of affordable housing in British Columbia, though in many cases they are not permitted. An increasing number of urban jurisdictions are legalizing secondary suites and some smaller communities have taken similar steps.

One challenge in legalizing secondary suites in urban areas is the perception that this might change neighbourhoods. For islands and other small communities additional challenges have been identified, including concerns about water supply, sewage treatment and maintaining rural character.

In the review of *Best Practices in Affordable Housing* produced in 2007 by Smart Growth BC, 33 of the 68 jurisdictions surveyed had adopted secondary suite zoning. There is no indication in any of these jurisdictions, 19 of which are in British Columbia, that secondary suite zoning has resulted in problems of exceeding density estimates, overloading infrastructure or transportation modes, or changing the character of neighbourhoods.

In considering whether and how to enable secondary accommodation units the following need to be examined:

- the community context
- the benefits of secondary units
- the barriers to their use
- the issues to be addressed

COMMUNITY CONTEXT

Aging communities

The Gulf Islands and other small BC communities are experiencing a demographic shift towards older age groups resulting both from the resident population aging and from people moving to the communities for retirement. This creates two challenges: meeting the housing needs of an aging population and meeting the housing needs of younger people needed to provide services and maintain community vitality.

Resort communities

The Gulf Islands and many other small BC communities are resort destinations which creates a high demand for visitor accommodation and summer homes. This also contributes to a seasonal economy with work being available when there is a high occupancy of available accommodation.

Amenity migration

There is a migration to attractive locations by people whose source of livelihood and/or level of income enable them to work at home, telecommute or live in a second home part-time. This, along with the purchase of retirement and summer homes, puts pressure on the real-estate market, increasing the price of homes at a greater rate than local incomes which are usually derived from service industry jobs, seasonal or part-time employment and self-employment. Thus home ownership is becoming increasingly inaccessible to local workers.

Shortage of market rental housing

In rural areas, most housing is ownership housing. There are limited numbers of market rental units available and they are often of older stock and poorer quality. The limited economic return on rental housing is a significant barrier. Property, construction and maintenance costs are high. There is a limit to the level of rent that rural residents can pay. There is not easy access to landlord-tenant dispute resolution processes in rural communities. Vacation rentals can be more lucrative than residential tenancies. Rentals often involve dwelling units owned by future retirees or by residents who are absent from the community for. These do not provide continuing security.

Limited non-market rental housing

The provision of non-market rental housing requires an organizational capacity that is hard to achieve in smaller communities. Such housing is usually provided by a housing authority or corporation set up by a municipality or a non-profit society. The economics of rental housing is as challenging for the non-profit sector as for the market sector.

Housing need

Islands and other small communities do not experience the extensive homelessness or large special needs populations that urban areas do. Nevertheless, there can be a significant number of households in core housing need. (A household is considered in core housing need if they cannot find somewhere to live that is in reasonable good condition and is big enough for their household without spending more than 30% of their income.) In the Islands Trust Area, 46% of renters are in core housing need. (13.7% of Canadian households and 15.8% of BC households are in core housing need).

Renters in core housing need

Under 20%
20%-30%
30%-40%
40%-50%
50%-60%
60%-70%
70%-80%

Local trust areas

Mayne

North Pender
Hornby, Lasqueti, Salt Spring, Saturna, Thetis
Denman, Gabriola

Galiano

Household size

The average size of households in the Gulf Islands is generally below the provincial average of 2.3 persons; for most local trust areas it is below 2 persons.

Limited development potential

Increasing the housing pool can be restricted by limited development potential resulting from policy or physical restrictions. Policy restrictions can include the implementation of the Islands Trust object to preserve and protect the unique amenities and environment of the Trust Area. Physical restrictions can include water availability. The limited development potential can contribute to increasing property values and thus the unavailability of affordable housing.

Local governance

Unincorporated areas do not have the range of governance tools available to municipalities. In the Islands Trust Area, local trust committees have planning authority but regional districts have responsibility for building inspection.

BENEFITS OF SECONDARY UNITS

Achievability

Compared to other approaches to providing housing opportunities, secondary accommodation units can be more readily made available, particularly when they involve utilizing an existing building. Housing can be created without the need of public expenditures or the involvement of a community organization, as would be the case for non-market housing.

Low-impact

Secondary units can increase the rental housing stock by using existing buildings and existing residential lots. Where household sizes are two or less people, having two households occupying one lot does not result in significant densification.

Possible forms of units

Types of units, other than in-house suites, can be considered for rural lots.

These could include:

- use of existing guest cottages for residential housing
- residential units within detached buildings (eg carriage suites)
- garden suites (detached small residential units, usually removable)
- mobile homes

Detached units can provide more privacy than in-house suites, something that may be more desirable in a non-urban context. However, they can increase the built footprint on a lot.

Benefits to property owners

As noted above, the economics of renting do not provide an incentive to property owners to rent primary dwelling units. However, there may be benefits to having secondary units:

- Aging in place

An older single person or a couple may be able to continue living in their rural home through having a younger person living on the lot to provide help with physical tasks, etc. The rental income may also help someone on a fixed income facing high property costs. (Such a situation can also provide mentoring and access to garden space for a younger person.)

- Security, caretaking

A non-resident property owner may value having a full-time resident on a property to provide security and caretaking. Such owners often rent out their summer homes in the winter to local residents who have to move out in the summer; a secondary suite may enable year-round accommodation.

- Accommodation for family members

Residents may wish to provide accommodation that is on-site yet separate for a family member. This could be for an off-spring who has become an adult and wishes to stay in the community but cannot find appropriate accommodation. It could also be used to provide a degree of independent living for an aging relative.

- Accommodation for employees

Residents who operate a home or community business may wish to provide accommodation for an employee or apprentice.

- Altruism

A resident who has more space than he or she needs may be willing to provide accommodation to a community member whose housing needs are not being met.

- Funding

CMHC's Residential Rehabilitation Assistance Program provides funding to create a new rental unit in a single family home for a senior citizen or a person with a disability or to convert existing non-residential buildings into affordable rental units.

Avoiding a culture of non-compliance

It is worth noting that all the above scenarios are already happening, utilizing non-permitted secondary units. This need to achieve housing solutions can lead to a culture of non-compliance when legal options are not available. Allowing legal options can create a better context for addressing illegal situations which can often be unsafe, unhealthy or exploitative and do not provide security.

BARRIERS

Community resistance

Experience elsewhere indicates that residents tend to have strong opinions on the question of whether secondary units should be allowed. Thus a community consultation process is required to identify the specific issues of concern and to look at how they can be addressed.

Lack of uptake

Even if community resistance is overcome and secondary units are allowed, there could still be limited uptake of this housing option. It is important to ensure that the method for allowing these units does not include disincentives if the goal is to encourage their use. Uptake can be greater if there is flexibility in the forms of units allowed. Providing good information to simplify the understanding of regulations and processes can also help. However, there can be significant costs involved in meeting building code and sewerage requirements that might be a deterrent.

ISSUES

In urban communities that have addressed the issue of secondary suites, key issues that have come up include health and safety, impact upon the built environment and parking. There are also administrative issues with respect to costs, regulation, permitting, liability and enforcement.

On the islands and in other non-urban communities the following issues can also be anticipated:

Maintaining rural character

There can be strong attachment to the perceived character of a neighbourhood or community and fear that this may be compromised by “densification”.

Water supply

Water availability (such as through on-site groundwater wells or community systems) may be limited causing concerns about creating additional households.

Sewerage systems

Sewerage is generally dealt with on-site in rural areas and there needs to be adequate capacity for a second household.

Appropriate use

Secondary units should be used for their intended purposes and not to accommodate visitors.

ENABLING SECONDARY ACCOMMODATION UNITS

COMMUNITY CONSULTATION

An ACT Case Study of North Vancouver notes that: “secondary suites have such a long history of controversy in many parts of Canada that the issue is weighted with sensitivities and concerns that are purely local in nature.” The study identifies “the need to seek common ground through public input and information.”

Opposition to secondary accommodation falls into four categories: economic (decreased property values), social (apprehension about people that are different); environmental (impact on habitat and water resources) and physical (increased traffic, noise and parking).

It is helpful to establish the community’s goals, values and planning policies. A needs assessment can be useful. Community processes should enable people’s concerns to be heard, differing perspectives to be shared and information to be provided that addresses expressed fears and apprehensions.

A certain amount of time and discussion may be required for people to move from expressing denial or resistance to participating in planning and evaluating solutions.

POLICY

Allowing secondary accommodation units first requires a statement of policy in an Official Community Plan. This could be a general enabling policy or it could be more specific about the form of units, where they may or may not be located and how they may be allowed.

Examples of OCP policies

Comox Valley:

“The provision of affordable housing shall be encouraged in the Plan area.”

“The following shall be permitted in the rural settlement area - residential, including a mix of housing sizes, types and styles.”

Whistler:

“The Municipality will continue to support auxiliary residential accommodation as a source of residential accommodation.”

Maple Ridge:

“Maple Ridge recognizes that secondary units and other detached dwelling units in residential neighbourhoods can provide affordable and/or rental housing in the community. Maple Ridge is committed to ensuring that bylaws and regulations are current and responsive to community issues and needs.”

Metchosin:

“One secondary suite may be permitted per dwelling unit subject to the Land Use Bylaw”

Castelegar:

“Secondary suites are allowed on single family residential lots.”

Gabriola Island:

“On parcels greater than 2.0 hectares or larger one cottage not exceeding 65 sq. metres shall be permitted accessory to a single family dwelling unit.”

“Provision for an accessory cottage on a parcel of 2.0 hectares or larger shall be recognized as the Gabriola Island means of providing affordable housing in a rural context.”

Salt Spring Island:

“In zones where single family dwellings are presently allowed, the Trust Committee should consider changing local zoning to also allow (as an alternative to a single family dwelling), a flexible unit dwelling that: a) has a maximum of two storeys, and b) has a maximum floor area of about 168sqm, and c) could contain between one and three dwelling units, depending on the needs and wishes of the property owner. Flexible unit dwellings should only be allowed on lots larger than 1.2 ha or on smaller lots in village areas. If zoning is changed to allow flexible unit dwellings, design guidelines and zoning regulations should be developed to ensure the dwellings fit into single-family neighbourhoods. If flexible unit dwellings are allowed, they should be allowed in only a few zones on a trial basis to find out if they do supply needed housing without having a negative effect on neighbouring properties. Flexible unit dwellings should not be allowed in zones within the Watershed-Islet Residential Designation unless they are shown not to increase population or sewage generation over that expected in single family dwellings. “

“Seasonal cottages should continue to be allowed wherever they are allowed by current zoning. The Trust Committee could consider rezoning applications from property owners who wish to convert their seasonal cottage to a small full time residence.

In considering any such applications within the boundaries of a community water system, the Trust Committee will ensure that the zoning change would not have a negative affect on the system's ability to supply water to all of the land uses that are allowed within its boundaries by current zoning. Comments from the affected water system's operators should accompany the rezoning application.

In considering any such applications on properties supplied by wells or surface water, the Trust Committee will request evidence that adequate water supplies are available, and that the wells on neighbouring properties would not be negatively affected by the zoning change.

Property owners applying to convert seasonal cottages into full time residences could be required to supplement their water supply with rainwater catchment systems or other forms of water conservation, if adequate water supplies are not available from their community water system or from wells or surface water. “

REGULATORY FRAMEWORK

Provincial legislation provides a small range of options for allowing and regulating secondary accommodation units. Legislators will have to balance the need to address concerns with the need to avoid undue disincentives.

Zoning regulations

Section 903 of the *Local Government Act* enables local governments to regulate the use and density of land and buildings, the siting, size and dimensions of buildings and permitted uses and the location of uses on the land and within structures. Regulations may be different, for different zones, different uses within a zone, different locations within a zone, different standards of work and services provided and different siting circumstances. This section provides a great deal of flexibility with respect to specifying where and how secondary accommodation units are permitted and under what circumstances.

The District of Metchosin has used zoning regulations to permit a secondary suite within a dwelling unit. Comox-Strathcona Regional District has used zoning regulations to permit a carriage house within the second storey of a building accessory to an existing residential use.

Zoning for amenities and affordable housing

Under Section 904 of the *Local Government Act*, a zoning bylaw may establish conditions that will entitle an owner to a higher density than the density otherwise specified in a zone. Allowable conditions include those relating to the provision of affordable and special needs housing, as defined in the bylaw, including the number, kind and extent of the housing. (The owner can be required to enter into a housing agreement before a building permit is issued.) This section can enable secondary accommodation units to only be permitted in accordance with specified conditions to meet defined affordable and special needs housing. Section 903 can be used to provide additional siting and use regulations.

The Resort Municipality of Whistler allows an additional 56 square metres of gross floor area to be added to a dwelling unit provided the housing is used to accommodate an employee working in Whistler.

Housing agreements for affordable and special needs housing

Under Section 905, a local government may (by bylaw) enter into a housing agreement with an owner regarding the occupancy of housing units. The terms and conditions may address the form and tenure of the units, to which classes of persons they may be made available, how they will be managed, and the rents charged (and rate of increase). The agreement cannot vary the use or density specified in the zoning bylaw. The agreement is filed on title, is binding upon future owners and can only be amended by bylaw with the consent of the owner. Although housing agreements are more commonly utilized for multi-unit developments, some local governments require housing agreements for individual secondary accommodation units.

While housing agreements enable site-specific rather than general permitting of secondary units, they do involve a significant amount of administrative work and would likely require a substantial fee to address administrative costs. Also, agreements can be as difficult to monitor and enforce as zoning regulations unless a special monitoring program is put in place with attendant costs.

The District of Maple Ridge uses housing agreements for secondary suites and for temporary residential units. The Town of Oliver uses housing agreements for secondary dwelling units.

Covenants

Under Section 219 of the *Land Title Act*, local governments can use covenants to address the use of land or buildings. These can be used to allow secondary accommodation units on a site-specific basis through property owners agreeing to grant a covenant with specified terms. Covenants can be used to allow temporary accommodation units with provisions for their removal. However, as with housing agreements, covenants are administratively burdensome and present challenges with respect to monitoring and enforcement.

The Township of Spallumcheen requires a covenant with respect to allowing a temporary residential unit for the medical care and nursing of an infirm person.

Site-specific zoning amendments

A local government can decide to only consider secondary accommodation units through an application for a site-specific zoning amendment. This provides for a high level of scrutiny for a proposed unit and enables issues such as water availability to be more specifically addressed. However, it involves a rigorous and expensive process which is likely to deter applications.

(A possible approach might be to bundle a number of site specific zoning amendments in one bylaw to reduce or eliminate the cost to applicants. However, the success of this approach depends upon property owners' interests in providing secondary units coinciding with the rezoning opportunity.)

Salt Spring Island Local Trust Committee requires an application for a zoning amendment for considering allowing a secondary suite or the use of a seasonal cottage as a full-time residential dwelling unit.

Discussion of options

The use of housing agreements, covenants and zoning amendments provide the greatest degree of control in that they are applied on a site-specific basis. In particular, housing agreements and covenants enable temporary units to be allowed for a specified use and period. However, they do not of themselves provide greater monitoring and enforcement; the costs and administrative requirements are likely to be a disincentive to people actually using these opportunities to provide affordable housing.

Allowing secondary accommodation units as a density bonus together with zoning regulations to address issues of concern is a more straightforward approach.

REGULATIONS

The following are suggestions of how issues of concern can be addressed through zoning regulations.

Appropriate use of units

Firstly, the appropriate use of secondary units can be supported by introducing regulations to address the short term vacation rental of dwelling units.

Secondly, by using Section 904 of the *Local Government Act*, a local government can specify that the additional density involved in establishing a secondary accommodation unit will only be permitted if the unit is used to provide affordable or special needs housing. This requirement will address concerns that such units might be used for other purposes, such as accommodating guests or visitors. Effective definitions of affordable housing and special needs housing will be required in the bylaw.

The Comox Valley Land Use Bylaw defines *affordable housing* as “any housing where the annual cost including taxes, condominium fees and mortgage, principal and interest payment, or gross rent, does not exceed 30% of the average annual individual income within the relevant Comox-Strathcona ‘Subdivision’ as defined by census Canada.”

The Salt Spring Island Land Use Bylaw defines *special needs housing* as “housing that provides for the residential accommodation of an individual or individuals who require specific housing designs or services to enable them to live relatively independently or in a supportive environment.”

Locations

Section 903 (3) allows for different regulations for different zones or locations within a zone.

A local government may want to exclude certain locations from the potential of having secondary units. In particular, secondary units could be excluded from areas known to have problems with water supply (which, in the Trust Area, would be necessary to comply with Policy 4.4.2 of the Islands Trust Policy Statement).

Locations within the Agricultural Land Reserve should be excluded from general regulations allowing secondary units because local governments do not have authority to allow more than one residence on ALR land unless an additional residence is required for farm use.

Secondary suites within an existing dwelling only could be allowed in some locations while detached units could be allowed in other locations.

Lot area

Whether or not secondary units are allowed and the type of unit that is allowed could be tied to lot area. For example, units could be prohibited on very small lots, in-house units only allowed on small lots while detached units could be allowed on large lots.

In Spallumcheen and Maple Ridge, secondary units are only permitted on lots over 0.4ha in area.

Form of units

Units can take the form of in-house suites, units attached to the principal dwelling unit, units incorporated into a non-residential accessory building (such as a carriage house), a stand alone unit (such as a cottage) or temporary units (such as a garden suite or mobile home). The temporariness of units can only be regulated through the use of housing agreements or covenants.

The following are some examples of definitions in use:

- | | | |
|-----------------|---|---|
| Secondary suite | - | a dwelling unit located within the structure of an owner-occupied single family dwelling. (Spallumcheen) |
| | - | a room or suite of rooms added to and contained wholly within a single-family detached dwelling unit, for use as a complete, independent living facility with provision within the secondary suite for cooking, eating, sanitation and sleeping. A secondary suite is an accessory use to the main dwelling unit. (Metchosin) |
| | - | an additional self-contained dwelling unit, having a separate entrance and containing kitchen and bathroom facilities, located within a residential building that contains only one other dwelling unit and is smaller than the primary residential unit. (Bowen Island) |
| Carriage house | - | a dwelling located on the second storey of an accessory building which contains no interior access to any part of the accessory building below the carriage house. (Comox Valley) |
| Cottage | - | a single family dwelling accessory to a principal single family dwelling (Gabriola Island) |
| Garden suite | - | a one-unit residential structure containing bathroom and kitchen facilities that is ancillary to an existing residential structure and that is designed to be portable. (Lanark On) |

Size of units

Some jurisdictions address the size of a secondary accommodation unit through a maximum permitted floor area for the unit or through a maximum percentage of the gross floor area of the building in which it is contained or, in most cases, both. Some examples of maximum permitted floor areas used are:

- 60m² (Metchosin, Gabriola)
- 70m² (Spallumcheen)
- 70m² (Oliver)
- 90m² (Castlegar, Comox Valley, Maple Ridge, Bowen, Whistler)

The percentage of gross floor area used is usually 40%. (This lines up with Building Code requirements which specify that a suite must occupy less than 40% of the principal dwelling in order for the less onerous standards for secondary suites to apply.)

Whistler initially started with a 70 sq.m size for units but found this constrained those occupants with a child or needing a home office. Whistler, along with many other jurisdictions, now allows units of 90 sq.m.

Siting of units

Siting considerations could include limiting the footprint on the land by clustering buildings on a lot and utilizing only one driveway. Thus it would be desirable to have a secondary unit incorporated into (or at least adjacent to) an existing building. On smaller lots there can be limited siting possibilities due to septic treatment, water supply and set back requirements.

Site-specific flexibility

It may be desirable to enable site-specific flexibility with respect to size and siting through consideration of applications for Development Variance Permits. To provide for this, the bylaw should be structured so that size and siting regulations are separated from use and density regulations.

Occupancy

The level of occupancy of a secondary unit can be addressed by the number of bedrooms allowed. This number could be different for different zones or for lots of different areas.

Occupancy of the principal dwelling

Addressing the level of occupancy in a principal dwelling could be challenging as this could change seasonally and with ownership.

Some jurisdictions require that the owner of the lot occupy the principal dwelling unit in order to provide some level of supervision. This is perhaps of more concern in areas communities with a more intensive development pattern. In Port Coquitlam it has been demonstrated that legalizing secondary suites has not increased the number of complaints. In communities where a high percentage of residential properties being owned by non-residents a requirement for the principal dwelling to be occupied by the owner would significantly limit the potential opportunities for units to be established. It is possible that some non-residents would value having year-round residents on site.

Non-residential uses

Some jurisdictions do not allow uses over and above the principal residential use to be conducted if a secondary dwelling unit is in place. This would probably be desirable on smaller lots and, in particular, would help to limit demands on water use. Excluded uses could include visitor accommodation (bed and breakfast, vacation rentals) and home occupations involving employees or visiting clientele.

On Bowen Island a bed and breakfast cannot be operated in a residential building containing a secondary suite.

Parking

An additional household will, in most cases, involve an additional vehicle. Using Section 906 of the Local Government Act an additional parking space could be required for an additional household living in a secondary accommodation unit.

Provision of water

It has been observed that adding a separate housing unit occupied by only one person usually results in more water consumption than adding an additional person to a single household.

Water consumption can be a concern in areas where water supply from on-site groundwater wells or community water systems is limited.

Secondary units can be excluded from areas known to have a problem with water supply (as noted above, this would be required in order to comply with the Islands Trust Policy Statement).

While proof of water supply can be required at the time of subdivision it is not possible to require this through zoning regulations for an existing lot. However, s.903 (3) (d) of the *Local Government Act* provides for different regulations for different standards of works and services. It will be useful for jurisdictions to explore how this section can be used to enable requirements for the provision of water as a condition of additional density allowed under Section 904.

This could involve requiring on-site water storage to hold water pumped at high-flow periods. It could also involve requiring rainwater catchment and storage systems, particularly for new free-standing units rather than for suites being incorporated into existing residences where retro-fitting can be a challenge.

Water conservation measures cannot be addressed in zoning regulations but can be encouraged through regulation (although typically such measures only result in a 20% reduction in total domestic use).

Run off is another concern that arises from adding to the built environment. Section 907 of the *Local Government Act* enables regulations to be applied to address this.

Treatment of Sewage

A key concern for non-serviced lots is the treatment of sewage.

The *Sewerage System Regulation* of the *Health Act* requires that only a registered practitioner or professional can construct and maintain a sewerage system and must provide written assurance to the health authority that plans and specifications are consistent with standard practices. Standard practices are specified in the *Sewerage System Standard Practice Manual*. The manual specifies minimum daily design flow rates for residences according to the number of bedrooms and the floor area. While these rates may seem high in relation to the daily use of a small rural household, they are established to protect against worse-case scenarios and to reflect peak loads (which can occur when summer visitors are present) and consider the life-span of the system.

The minimum daily design flow rate for a 1-2 bedroom unit less than 150sqm in area is 250 gallons and for a 3 bedroom unit less than 175sqm in area is 300 gallons. Thus the minimum

combined daily design flow for a small house plus a secondary unit is 550 gallons. The figure would be greater for larger primary dwellings.

The regulatory framework provides for engineered systems to address site-specific situations, but these can be expensive in terms of both initial costs and maintenance costs. Composting toilets are not covered by this regulation, but where such toilets are used the wastewater flow still needs to be treated by an approved sewerage system.

Where building permits are required, an Occupancy Permit can be withheld if proof of compliance with the Health Act is not provided.

Where building permits are not required, zoning regulations can include an information note highlighting the need to meet the requirements of the Sewerage System Regulation.

To provide greater assurance that sewerage requirements are being met, it may be possible to utilize Section 903 (3) (d) of the *Local Government Act* to include regulations in a zoning bylaw. These cannot involve a discretionary process nor can they involve delegating authority to another agency. Regulations would need to be prescriptive and should be the same as provincial requirements. It may or may not be possible to require some kind of evidence that this regulation has been met through the siting and use permit, but this should be investigated. Legal advice should be sought on the possible use of such regulations.

It is likely that sewerage requirements will limit the number of secondary accommodation units that will be established.

COMPLIANCE

Municipal governments have sometimes accompanied the legalization of secondary suites with a program to address illegal suites. In small and rural communities, local governments would not have the resources to take on such an approach.

In such circumstances, local governments rely upon voluntary compliance and upon making application to the Supreme Court for enforcement when efforts to achieve voluntary compliance have failed. Members of the public may want to see other ways to ensure compliance if they are to support the enabling of secondary accommodation units.

Municipal ticketing provides a more immediate compliance tool. In circumstances where there is reluctance to apply municipal ticketing to the whole zoning bylaw, this tool could be limited to specified regulations addressing the use of secondary units.

As noted above, while housing agreements and covenants may seem to provide more certainty than zoning regulations, compliance is no more readily achieved unless a specific monitoring program is established. Housing agreements and covenants require court involvement to be enforced.

Providing for legal secondary accommodation units may increase willingness to address illegal accommodation units, particularly those that pose environmental, health or safety problems.

INFORMATION AND EDUCATION

Regulations could be complemented by making information available in the form of a brochure and/or web page. This would serve to support compliance and to encourage uptake.

The following could be addressed:

- Zoning regulations
- Sewerage regulations
- Building code requirements
- Best practices, such as water storage and use
- Building options (eg Flex housing)
- Funding sources (eg CMHC)

UPTAKE

Once enabling legislation is in place it might well turn out to be that the number of units actually created is less than proponents hoped or opponents feared. Providing approved sewerage treatment may be a significant obstacle. High construction costs in relation to potential returns may mean that those units that are created are suites within an existing residence or the conversion of an existing accessory building rather than new construction. There will likely be a limited number of landowners interested in pursuing this option. It might not be in the interests of second home owners or those who have established a rural retreat for privacy and quiet to have other people living on their lot.

However, allowing secondary accommodation units would likely provide a valuable option for residents in particular circumstances and can be an important part of the mix of solutions required to address a community's housing needs.

APPENDIX I

RELEVANT LEGISLATION

The following sections of provincial legislation have relevance in considering the permitting and regulating of secondary accommodation units

Local Government Act

Section 877: Required content of Official Community Plans

The required content of an Official Community Plan (OCP) includes statements and map designations respecting the approximate location, amount, type and density of residential development required to meet anticipated housing needs over a period of at least five years. The OCP can include policies regarding whether, where and how secondary accommodation units might be permitted in order to meet anticipated housing needs.

Section 903: Zoning bylaws

A local government may regulate the use and density of land and buildings, the siting, size and dimensions of buildings and permitted uses and the location of uses on the land and within structures. Regulations may be different, for different zones, different uses within a zone, different locations within a zone, different standards of work and services provided and different siting circumstances. This section provides a great deal of flexibility with respect to specifying where and how secondary accommodation units are permitted and under what circumstances.

Section 904: Zoning for amenities and affordable housing

A zoning bylaw may establish conditions that will entitle an owner to a higher density than the density otherwise specified in a zone. Allowable conditions include those relating to the provision of affordable and special needs housing, as defined in the bylaw, including the number, kind and extent of the housing. (The owner can be required to enter into a housing agreement before a building permit is issued.) This section enables secondary accommodation units to only be permitted in accordance with specified conditions to meet defined affordable and special needs housing.

Section 905: Housing agreements for affordable and special needs housing

A local government may (by bylaw) enter into a housing agreement with an owner regarding the occupancy of housing units. The terms and conditions may address the form and tenure of the units, to which classes of persons they may be made available, how they will be managed, and the rents charged (and rate of increase). The agreement cannot vary the use or density specified in the zoning bylaw. The agreement is filed on title, is binding upon future owners and can only be amended by bylaw with the consent of the owner. Although housing agreements are more commonly utilized for multi-unit developments, some local governments require housing agreements for individual secondary accommodation units.

Section 906: Parking space requirements

A local government may the provision of off-street parking. An additional parking space could be required for an additional household living in a secondary accommodation unit.

Section 907: Run off

A local government may require an owner who constructs a paved area or roofed area to manage runoff and also may limit the percentage of land covered impermeable material. This may be considered to address additional impacts of a secondary unit.

Section 694: Regional district building regulations

The board of a regional district may regulate the construction and alteration of buildings for the purpose of health, safety or protection and may require that building permits and occupancy permits be obtained. (The Regional District of Comox-Strathcona only applies building inspection to Electoral Areas A, B, C and D. Electoral K, which includes Hornby Island, is not included.) The British Columbia Building Code applies whether or not the regional district requires building permits.

Land Title Act**Section 219: Registration of a covenant as to use and alienation**

A covenant in favour of a local trust committee may be registered against the title and may include provisions in respect of the use of land and buildings. An owner could be required to enter into a covenant respecting the use of all or part of a building as a secondary accommodation unit.

Agricultural Land Commission Act**Section 18: Rules for use and subdivision of agricultural land reserve.**

A local government may not approve more than one residence on a parcel of land unless additional residences are necessary for farm use.

Health Act – Sewerage System Regulation**Part 3: Sewerage Systems**

Only a registered practitioner or professional can construct and maintain a sewerage system and must provide written assurance to the health authority that plans and specifications are consistent with standard practices. (Standard practices are specified in the *Sewerage System Standard Practice Manual*).

APPENDIX II

SOME APPROACHES TAKEN BY BC COMMUNITIES

Bowen Island – in-house suite permitted by zoning regulations

Any single family dwelling can contain a secondary suite of not more than 90sqm provided it does not occupy more than 40% of the habitable floor space of the dwelling. A home occupation, bed and breakfast or commercial guest accommodation cannot be conducted in a residence containing a suite.

Metchosin – in-house suite permitted by zoning regulations

A secondary suite limited to 4 rooms (bedroom, Bathroom, living room and kitchen) and to 60sqm is permitted within a dwelling unit.

Castelegar – in-house suite permitted by zoning regulations

A one bedroom suite of not more than 90sqm is permitted provided that the owner of the dwelling is living in either the main unit or secondary suite.

Comox Valley – carriage house permitted by zoning regulations

A dwelling unit of not more than 90sqm is permitted on the second story of an accessory building.

Gabriola Island – cottage permitted by zoning regulations

A cottage of not more than 65sqm is permitted as an accessory single family dwelling on lots larger than 2.0 hectares.

Maple Ridge – temporary unit permitted through a housing agreement

A secondary suite of up to 90sqm is permitted in a one-family residence provided the owner enters into a housing agreement with the District of Maple Ridge and provided approval is provided by the appropriate health authority if the lot is not serviced by municipal sewer.

Salt Spring Island – secondary unit permitted through a rezoning application

The Official Community Plan enables property owners to apply for a zoning amendment specific to their property for a secondary suite to provide affordable housing and for those who need in-home care.

APPENDIX III

THE EVOLUTION AND IMPACT OF SECONDARY SUITES IN WHISTLER

Prepared by Tim Wake, Affordable Housing Consultant

Early History of Secondary Suites in Whistler

The Resort Municipality of Whistler was incorporated in 1975 with legislation that permitted secondary dwelling units (suites) in single family homes. It is interesting to note that suites were not permitted in the duplex zone, although this has not prevented the construction of what are, in effect, four-plexes (a suite in each side of a duplex) in the duplex zone.

The period from 1975 through to 1990 was marked by considerable residential development in Whistler, and during that period, according to realtor and former mayor Drew Meredith, about 50 secondary suites per year were being created at no cost to the municipality or the community. Most people building homes in that period were building to their maximum allowable gross floor area (GFA) and most were including a suite.

There were two main reasons that suites were popular. First of all, these homes were predominantly owned by Vancouver residents who liked the idea of having someone living full time at their ‘cabin’ in Whistler to keep an eye on the place, keep the pipes from freezing in the winter, and prevent vandalism or theft. Secondly, the revenue from a rental suite provided a ‘mortgage helper’, generating \$800 per month or more to help pay for the house.

As the resort began to attract more visitors, more businesses and more employees, these suites became an important inventory of rental accommodation to help house the growing workforce. Some of these suites were occupied by permanent tenants, others only found use during the ski season. By the 1990’s most of these suites were occupied year round.

Development after 1990 and Mandatory Suites

The pace of development in Whistler picked up in the 1990’s but construction of single family homes subsided as commercial development began to pick up. The Employee Service Charge Bylaw was passed in 1990 requiring developers of commercial or tourist accommodation space to contribute restricted housing or cash-in-lieu (to a housing fund) but there was no similar requirement for developers of residential housing.

By 1995, the generation of suites in new single family homes was falling off, but the suites had created such an important inventory of affordable rental housing that the community looked for a way to ensure the number of suites would continue to grow. In 1997, the municipality began zoning for mandatory suites in all new single family neighbourhoods. Typically, in a new neighbourhood like Spruce Grove, every second single family lot would have mandatory suite zoning. The purchaser of one of these lots was required to construct a secondary suite (450 – 750 sq.ft.) as an accessory unit to the dwelling. The suite could only be rented to an “employee or retiree” as defined in the housing covenant registered on title, and the maximum rent was \$1.25 per sq.ft. per month. In Spruce Grove, this created 38 secondary suites. Zoning of the Spruce Grove neighbourhood also included 10 price restricted single family lots for qualified locals and 42 price restricted town homes.

With mandatory suite zoning in Spring Creek and Nesters Hill and one more single family neighbourhood (Barnfield Farm) that included restricted suites, the total number of restricted suites created in Whistler was approximately 90 over a six year period from 1998 – 2003, for an average of about 15 per year. Meanwhile the private sector was still generating a small number of suites, but was also removing them through demolitions at about the same rate.

A 1999 study by the Whistler Housing Authority estimated there were 900 secondary suites in Whistler, and about 200 of these were non-conforming (had not been constructed with a building permit). If we assumed a production rate of 50 suites per year from 1975 to 1990 and 15 per year from 1990 to 2000, that would total 900, so the inventory does seem to confirm the anecdotal evidence of the rate of production.

Annual suite production today continues to fall. To the end of September 2007, there have been 5 building permits processed for new suites, and 2 for suite demolitions (this includes all suites, market and non-market) so we are at a net of three new suites for the year.

Lessons Learned with Suites in Whistler

With thirty years of secondary suites in Whistler what have we learned?

- Secondary suites have provided an essential inventory of affordable rental housing for seasonal and long term residents in Whistler.
- Initially suites were being created at a rate of about 50 per year, but as production fell off, a mandatory suite policy was instituted in an attempt to keep generating suites. While this policy did continue to generate suites, it was not nearly as successful as the market forces that created the first inventory of suites in Whistler.
- Most suites have maintained their affordability in spite of a six fold increase in single family house prices over thirty years. The reality is that the rental market, ie. those who are renting, will only do so at prices they can afford. Landlords who charge exorbitant rent for their suite or rental house are only able to achieve those values by over populating their rental property, a practice that is typically unsatisfactory for both landlord and tenant.
- The existence of secondary suites in Whistler has resulted in many successful landlord tenant relationships, but there is also a steady stream of landlord tenant disputes that are not satisfactorily resolved. Some sort of local housing ombudsman function has been considered for some time but to date has not been implemented.
- The initial production of secondary suites over 15 years in Whistler was driven by the benefit of having a permanent occupant in a second home and by the financial benefit of having a mortgage helper. As the community matured and house values exceeded \$1 million (post 1990), owners seemed to value privacy and less complication over the initial benefits.
- We will likely see very few suites produced in the future in Whistler, in spite of an overwhelming demand for them in the rental market.

- An infill housing policy has recently been developed in Whistler. It is designed to encourage homeowners to consider adding a suite or an accessory dwelling unit in a separate building on their lot. To date it has not shown any increase in the production of affordable dwelling units.
- There is no sense in Whistler that allowing secondary suites in homes has had a negative impact on neighbourhoods, transportation challenges, infrastructure requirements, noise problems or livability. On the contrary, it has actually helped the community be more efficient, helped solve the affordable housing shortage, and provided a diversity of rental product on the market. If we could go back and do it all again, we probably would have tried to find a way to create more suites.

APPENDIX IV REPORTS AND STUDIES

ACT Reports and Case Studies

Building community acceptance for secondary suites

A report on how the District of North Vancouver built community acceptance for the legalization of secondary suites. Key issues included costs building code, regulation and complaints. An extensive public consultation process was carried out. Although the issues may be different, elements of the process are transferable to provide a way to establish common ground.

Second dwelling units in rural and village settings

A report on how the Township of Roxburgh in Ontario enabled secondary dwelling units. This included creating a population review of the Township, reviewing policy and regulations, proposing amendments, establishing an implementation program and producing a handbook.

Permitting garden suites

There are a number of reports detailing how local governments such as those of Durham, Ontario, Cowansville, Quebec, Kings County, Nova Scotia and Tantramar, New Brunswick have addressed the permitting of garden suites. The regulatory framework is different in each province, but some principles and criteria are transferable.

Addressing sewage treatment

A project in Ontario looked at laying the groundwork for an approval process to keep garden suites affordable while addressing public health requirements for sewage treatment.

Reports on Secondary Suites in BC

Secondary Suites: A Guide for Local Governments

This BC Government publication addresses issues that local governments need to consider in looking at permitting secondary suites. It provides eight case examples: Abbotsford, Coquitlam, Kelowna, Nelson, New Westminster, North Vancouver, Whistler and Anmore. It notes that secondary suites are a form of rental housing that is typically affordable, ground-oriented and market-based. Suites can provide many benefits to homeowners, tenants and the community.

Barriers and Solutions: A Secondary Suites Workshop (Summary of Proceedings)

This 2003 workshop focused on four key areas: legal liability, health and safety and regulatory issues; financing of secondary suites, mortgages, utility fees and municipal cost recovery; design solutions for secondary suites; community acceptance, collaboration and consultation.

Other reports

Options for Affordable Housing: New Solutions to the Housing Crisis (Islands Trust)
Secondary Suites: A Call for Safe and Legal Housing (Tenants Rights Action Coalition)
Dimensions of Core Housing Need in Canada (Co-operative Housing Federation of Canada)
Secondary Suite Public Information Document (Bowen Island Municipality)
Planning for Housing (BC Housing Policy Branch)
Market Housing Affordability (BC Housing Policy Branch)
Housing Needs of Low-income People Living in Rural Areas (CMHC)
Planning Tools for Supportive Housing (BC Office of Housing and Construction Standards)
Smart Bylaws Guide (West Coast Environmental Law)
Review of Best Practices in Affordable Housing (Smart Growth BC)

