



Committee of the Whole Report

For the Meeting of April 21, 2022

To: Committee of the Whole **Date:** April 7, 2022

From: Karen Hoese, Director, Sustainable Planning and Community Development

Subject: **Garden Suite Program Review**

RECOMMENDATION

1. Prepare and bring forward, for first and second readings, an Official Community Plan Amendment Bylaw to update the *Garden Suites Policy and Guidelines*, as identified in this report.
2. Consider consultation under Section 475(2)(b) of the *Local Government Act* and direct staff that no referrals of the Official Community Plan Amendment Bylaw are necessary to the Capital Regional District Board, Island Health, Songhees Nation, Esquimalt Nation, provincial or federal governments, Township of Esquimalt, District of Saanich and the District of Oak Bay.
3. Consider consultation under Sections 475(1) and 475(2) of the *Local Government Act* and direct staff to undertake focused consultation with the development industry and the Community Association Land Use Committees on the proposed amendments to the *Official Community Plan* through a 30-day notification and notice posted on the City website.
4. Prepare and bring forward, for first and second readings, amendments to the *Land Use Procedures Bylaw* revising the Development Permit application base fee for Garden Suites from \$1,000 to \$3,000, increasing to \$3,500 if the application is not consistent with the applicable Design Guidelines and must be referred to Council for consideration.

EXECUTIVE SUMMARY

This report responds to Council's motion of July 11, 2019, which directed staff to undertake a fulsome review of the garden suite program. In response to this direction, this report:

- provides the history and background of the garden suite program from 2010 to the present day
- identifies a significant increase in the number of applications for garden suites being processed from the date the City's garden suite policy was amended in 2017, which allowed proposals to be considered through a streamlined delegated Development Permit application process rather than a through a Rezoning
- recommends that revisions to the *Garden Suite Policy and Design Guidelines* are necessary to remove redundant language, address design challenges that are being experienced, and to bring the document into alignment with other City policies, bylaws and initiatives

- recommends that the *Land Use Procedures Bylaw* be amended to increase application fees for garden suites to better reflect the staff resources required to process a garden suite application.

Purpose

The purpose of this report is to:

- present Council with an overview and update on the garden suite program
- seek direction to revise the *Garden Suite Policy and Design Guidelines* and initiate consultation related the necessary Official Community Plan Amendment
- seek direction to prepare amendments to the *Land Use Procedures Bylaw*, to increase the application fee for garden suites to better recover the costs associated with processing these application types.

Background

Program History

The City's *Garden Suite Policy and Design Guidelines* was first adopted in 2010 and, at that time, a rezoning application and concurrent development permit (DP) application were required to construct a garden suite. This policy document was initially used to assess both application types with Council reviewing each garden suite on its own merits and making a decision, following a Public Hearing.

In April 2017, Council adopted Zoning Regulation Bylaw amendments to allow garden suites on most properties with single family dwellings and established a system of delegated authority so staff could review and approve DP applications for garden suites. To qualify for delegation, a proposed garden suite must be designed to be both consistent with the *Garden Suite Policy and Design Guidelines* and the applicable regulations set out in the *Zoning Regulation Bylaw*.

At the time some minor amendments were made to the Design Guidelines, however, the revisions did not entirely reflect the Zoning Regulation Bylaw amendments that were adopted or the subsequent process changes. As a result, the *Garden Suite Policy and Design Guidelines* contains regulatory and process information that is no longer relevant as it pertains to the old rezoning process for garden suites predating 2017. As discussed later in this report, staff are proposing to update the policy to remove and update these (and other) redundant sections.

In August 2019, Council adopted amendments to the *Zoning Regulation Bylaw* to limit the conversion of new accessory buildings to garden suites and reduce the height of garden suites to 4.2m for "plus sites" (defined as a corner lot, a lot with two street frontages, a lot with a rear laneway or a lot greater than 557m² in total area). The height proposed for garden suites on properties that are not "plus sites" remains at 3.5m. The staff report presented to Council at that time also discussed the need for further refinements to the *Garden Suite Policy and Design Guidelines* and identified the need to review applicable fees to more fully recover costs associated with processing applications. Council subsequently directed staff to report back with fulsome review of matters discussed in the staff report at a later stage in the Victoria Housing Strategy. This report responds to this Council direction.

Development and Construction Statistics

From 2004 to 2017 (13 years) when a rezoning application was required to facilitate the construction of a garden suite, there were an average of two applications per year, totalling 27 applications (19 approved).

From April 2017 to February 2022 (i.e., following the regulatory and process changes resulting in the delegation of applications for garden suites), there have been 108 applications (105 delegated DPs, two rezonings, one development permit with variance). To further break this down, in the past five years, the City has received, on average, approximately 22 garden suite applications per year.

Of the 108 DP applications received since April 2017:

- 77 DP applications have been approved through delegated authority by staff
- two applications were referred to Council because they were inconsistent with the design guidelines, and these applications were approved by Council
- one application has been approved by Council through a Development Permit with Variance
- one application was declined through delegated authority
- 11 applications have been cancelled/retired/withdrawn
- 16 applications are currently either in-process or are with the applicants who are undertaking revisions.

Of the 77 garden suite DPs that have been issued between April 2017 and February 2022:

- 55 have been constructed
- 20 are either obtaining building permits or under construction
- the remaining two have not applied for building permits at this time.

Garden Suite Application Fees

The fee to apply for a delegated DP for a garden suite is \$1,000. This fee was established based on providing a 50% discount from the base application fee (\$2,000).

This report provides a review of the current fee structure for garden suites and recommends increasing fees. A more detailed explanation and rationale for this suggestion is provided below.

Future Review and Monitoring

This report provides a review of the existing garden suite program and recommends adjustments to the existing guidelines and fee schedule to address issues that have been experienced since the current program was put in place five years ago. Going forward, staff will continue to monitor and report to Council on the garden suite program and recommend adjustments as needed.

Strategic Plan housing actions identified for 2023 include policy initiatives around tiny homes and garden suites, including consideration of allowing garden suites on lots with duplexes or secondary suites.

Issues & Analysis

Outdated Policy

As outlined above, the *Garden Suite Policy and Design Guidelines* contain regulatory and process information that is no longer relevant as it pertains to the old rezoning process for garden suites predating 2017. Staff are proposing to update the policy to remove these redundant sections as discussed below.

Remove “Requirements” Section

The Policy includes a section that outlines certain “requirements” for garden suites. The requirements include, amongst other things, direction relating to appropriate setbacks, height and siting requirements. Several of these “requirements” are set out in Schedule M – Garden Suites of the *Zoning Regulation Bylaw*, or, in some cases, the *BC Building Code* and, therefore, this section of the Policy is redundant and should be deleted.

Remove “Exceptions” Section

The current Policy also includes a section identifying “exceptions”, which provides policy advice on unique lot configurations including lots with existing buildings, significant trees, and “plus” sites. These “exceptions” were originally written to provide policy guidance for rezoning applications and proposals seeking variances and are not consistent with the regulations set out in the *Zoning Regulation Bylaw*.

For example, this section of the Policy outlines the criteria for “plus sites”, however, these sites are now governed by Schedule M of the *Zoning Regulation Bylaw* and, therefore, the language in the Policy is again largely redundant.

Where there is relevant remaining wording in the “requirements” and “exceptions” sections, this wording will be incorporated elsewhere in the Policy document.

Design Challenges

Given the significant numbers of garden suite applications that have been processed since the program changes in 2017, staff have been able to identify design challenges that are common to many proposals. In addition, staff have noted that there are a number of guidelines that are outdated and should be updated to reflect current City policy. Recommended changes to the guidelines pertain to:

- window placement and privacy impacts
- tree protection and planting
- the design of building entries
- roof design
- accessibility
- the location of mechanical features
- sustainability features
- garden suites attached to existing garages
- bicycle parking and storage.

The above issues and proposed amendments to the Design Guidelines are discussed below.

If directed by Council to amend the *Garden Suite Policy and Design Guidelines* consistent with the recommendations of this report, in the interim period until those Guidelines are formally adopted, staff will encourage applicants to comply with the design principles outlined below. This will help address some of the design challenges discussed in this report and ensure that applicants are not caught unaware by the new guidelines.

Window Placement

The current guidelines state that windows oriented to neighbouring properties are strongly discouraged; however, it is unclear at what distance, or in what circumstances, windows facing

neighbouring properties are acceptable. There are circumstances involving lots where a garden suite can be sited to allow a substantial setback between a window and a side or rear lot line. In addition, solutions such as window design and placement, landscaping, screening, and boundary treatment can mitigate or eliminate privacy concerns that may result from windows that face neighbouring properties.

The minimum side and rear setback requirement for single family houses in the R1-B Zone, Single Family Dwelling District, is 1.5m and 7.5m respectively, and windows may be placed on building elevations that comply with these setbacks. However, as garden suites are usually situated in rear yards, this increases the potential for privacy issues resulting from windows overlooking neighbouring outdoor amenity space and, thus, creating the need to give very careful consideration to the siting of garden suites and associated window placement.

Notwithstanding the above, it would seem reasonable to consider that there are some circumstances where windows in garden suites could be supported where they are oriented towards the side and/or rear of a property. To provide clarity to both staff reviewing applications and applicants designing proposals, it is recommended that the guidelines be updated to provide additional direction relating to window placement. As such, it is recommended that the guidelines be revised to state the following:

- Windows are encouraged to be placed so that potential privacy and overlook impacts are largely absorbed by the subject lot by orienting windows and doors towards streets and towards the principle dwelling and the main yard area.
- Windows in garden suites should be located a minimum of 5m from a property boundary with an adjacent residential property. Notwithstanding their distance from a property boundary, windows should be designed in a sensitive manner that mitigates potential impacts on neighbouring properties.
- Notwithstanding the above, small, sensitively located bedroom windows, that are required to address exiting requirements of the BC Building Code, may be oriented towards neighbouring properties if they are located a minimum of 2m from the property boundary with an adjacent residential property.
- Where windows face the adjacent property, appropriate features, such as landscaping and opaque glazing, should be considered to address potential privacy and overlook issues.
- Window design and location should also consider unique site conditions and adjacencies. For example, in situations where garden suites face parks or public open space they should be designed to have a sensitive interface with the adjacent space (i.e., sensitive fenestration, setbacks, screening and landscaping should be considered).
- While glazing systems that support passive heating are generally encouraged, the scale and orientation of windows must be balanced with potential impacts on neighbours. Large expanses of glazing will not be supported where they potentially impact neighbours' privacy. In addition, in order, to balance heat gain and energy loss, a more balanced window to wall ratio (for example 50% wall and 50% windows) is normally desirable.
- Where window placement cannot satisfy the above criteria because of unique site conditions (e.g., very narrow lot) applicants are encouraged to consider design solutions such as opaque glass, transom style windows, permanent landscape screening and fences to minimize impacts on neighbouring properties. However, there may also be circumstances

where unique site conditions (e.g., site topography) would allow windows in a garden suite to be located closer than 5m to a property boundary without impacting neighbours. Staff would review each application on its own merits.

If an application proposes windows in a garden suite that are closer than five metres from the property boundary with an adjacent residential property and the applicant is unable to demonstrate that the resulting design provides measures to satisfactorily address privacy issues, then the application will be deemed inconsistent with the Design Guidelines and will not qualify for consideration under delegated authority (and will be referred to Council).

Tree Protection and Planting

Constructing a garden suite and the associated landscaping (walkways, patios and other hardscape features) can often have impacts on existing trees and the potential open space and soil volume for future trees. It is recommended that the draft Design Guidelines be amended to bring applicants' attention to the requirements of the *Tree Protection Bylaw*.

Building Entry

The current guidelines encourage a building entry to be visible from the street or lane where possible. For increased liveability and function, it is recommended that additional guidelines be added, encouraging design elements for weather protection, such as a recessed or covered entry. In addition, landscaping features could be used to reinforce the location of the entry especially when site conditions make it challenging for an entry to be visible from the street.

Roof Design

In 2019, Schedule M of the *Zoning Regulation Bylaw* was amended to reduce the permitted building height for "plus sites" to 4.2m from 5.5m to reduce the potential negative impact on neighbouring properties through shadowing and visual impact. It is recommended that the Design Guidelines be further revised to address the potential for such negative impacts by encouraging upper floors to be integrated into the roof form (for example, a dormer style roof) where feasible. Conversely, it is recommended that special care be taken with applications proposing flat or shallow pitched roofs to ensure impacts (which can be more intense than pitched roof forms) are mitigated. These building forms may require larger setbacks and/or more careful siting.

Accessibility

The current guidelines state that an unobstructed path between the public street and garden suite is required for private and emergency access. It is recommended that the proposed guidelines further build on this and encourage design measures to facilitate ease of access, internal maneuverability, and other accessibility features to enhance the accessibility of garden suites. If the recommendations in this report are supported by Council, staff will liaise with the Accessibility Advisory Committee regarding any revisions to the guidelines relating to accessibility.

Mechanical Equipment

The current guidelines do not address the placement of mechanical equipment, such as heat pumps; therefore, it is recommended that wording be added encouraging applicants to consider the appropriate location of such equipment at an early stage and locate this equipment in a manner that minimizes the impacts on neighbours and addresses City Bylaw requirements (e.g., noise, setbacks etc.).

Garages and Storage

The *Zoning Regulation Bylaw* permits garden suites that are attached to garages. It also requires that one off-street parking stall is provided on-site for the single-family dwelling. If the required parking is enclosed, it is exempt from floor area calculations. However, where enclosed parking is attached to a garden suite, if another parking stall is provided elsewhere on-site, then the garage is counted toward the total floor area of that garden suite.

To address the impacts of this, it is recommended that the Design Guidelines be revised to include language requiring that, when a garage and garden suite are attached, the resulting building must be designed to be consistent with guidelines relating to privacy, shading, and impacts on trees. The objective of this guideline is to facilitate sensitive garden suite development, maximize outdoor amenity space and tree planting potential by encouraging the conversion or removal of garages and carports that are superfluous to the parking requirements outlined in the *Zoning Regulation Bylaw*.

Sustainability

The current guidelines encourage green roofs, permeable paving and native plant species in landscaping plans. It is recommended that further language be added to explicitly encourage incorporating rainwater management, water conservation and energy efficiency through the building design and site planning. Some sites may be located on streets without storm drains due to the presence of rock and, in these circumstances, more specific stormwater management may be required.

Bicycle Parking

It is recommended that a guideline be added to encourage the provision of bicycle parking and storage as this is something that is not typically accommodated in a garden suite design.

Application Fees

As outlined earlier in this report, the application fee for a delegated Development Permit for a garden suite is \$1,000.

While a delegated DP for a garden suite may, at first, appear to be a small scale and straightforward application, this is rarely the case:

- Garden suite proposals are often project managed by the homeowner who is typically not familiar with the application process and submission requirements. At the outset, this often means that the initial submission does not provide the necessary information required to carry out a fulsome review and a considerable amount of time can be spent discussing and explaining the submission requirements to the applicant.
- There are also often issues of proponents advancing designs that try to minimize the impact to their own dwelling/property by orienting windows and building volumes in a manner that has a disproportionate impact on their neighbours resulting in the need for design revisions.
- It also common to find that, while the applicant has spent some time thinking about the design and location of the suite, they have not considered matters such as site servicing and impacts on trees, which may require subsequent reports from Engineers and Arborists.

Staff are increasingly finding that the time spent supporting an applicant through the garden suite application process can be similar to, or exceed, the time spent on larger and more complex

applications. As a result, in most cases, the \$1000 application fee does not cover the Planning, Engineering and Parks staff time associated with the approvals process required for a garden suite proposal.

In light of the above and to better reflect the staff resources required to process a garden suite application, it is recommended that Council consider amending the *Land Use Procedures Bylaw* to:

- increase the delegated DP fee for a garden suite to \$3,000
- increase the DP fee to \$3,500 in cases where an application is inconsistent with the applicable Design Guidelines and must be referred to Council for consideration (to better cover the costs of the additional staff time and resources associated with these applications, i.e., preparing Council reports, presenting applications to Council, etc.)
- increase the Development Permit with Variance fee for a garden suite to \$3,000 plus \$250 per requested variance.

Public Consultation

Amending the *Garden Suite Policy and Design Guidelines* requires an Official Community Plan (OCP) amendment. As such, these amendments also require consultation in accordance with the *Local Government Act* (LGA), including a requirement for Council to consider the appropriate amount and type of opportunities for consultation with persons, organizations and authorities it considers will be affected.

In accordance with the LGA, when an amendment is proposed to the OCP, the local government (Council) must, in addition to the public hearing, provide one or more opportunities it considers appropriate for consultation with persons, organizations and authorities it considers will be affected. Specifically, Council must:

- (a) consider whether the opportunities for consultation with one or more of the persons, organizations and authorities should be early and ongoing; and
- (b) specifically consider whether consultation is required with the following:
 - (i) the board of the regional district in which the area covered by the plan is located, in the case of a municipal official community plan;
 - (ii) the board of any regional district that is adjacent to the area covered by the plan;
 - (iii) the council of any municipality that is adjacent to the area covered by the plan;
 - (iv) first nations;
 - (v) boards of education, greater boards and improvement district boards;
 - (vi) the Provincial and Federal governments and their agencies.

In consideration of the nature of the proposed OCP amendment (i.e., only relating to revisions to the *Garden Suite Policy and Design Guidelines*) it is recommended that “persons affected” by the amendments include property owners, residents and the development industry, and that focused consultation is undertaken as follows:

- notice of the proposed OCP amendment posted on the City website
- focused consultation in the form of a 30–day referral to the Urban Development Institute (UDI), Home Builders Associations, and Community Association Land Use Committees by way of sending background information as well as an invitation to submit comments.

It should be noted that, with respect to the OCP amendment, consistent with the LGA and City’s Land Use Procedures Bylaw, a Public Hearing will be required and notice of the Hearing will be

advertised in the local newspaper and on the City website. However, on-site sign posting is not required where ten or more properties are affected by a City-initiated Zoning Bylaw amendment.

OPTIONS & IMPACTS

Accessibility Impact Statement

The proposed amendments to the *Garden Suite Policy and Design Guidelines* encourage the provision of a range of accessibility features and empower staff to request that these features be integrated into the building design and site planning.

2019 – 2022 Strategic Plan

The Strategic Plan contains several objectives relating to delivering an increased supply of affordable and rental housing, as well as maintaining a healthy economy.

Impacts to Financial Plan

The proposed increase in application fees for garden suites will, based the average annual number of garden suite proposals submitted over the last four years, result in an increase in fees of approximately \$44,000 per year which will help cover the actual cost of administering this program.

Resource Impacts

The proposed application fee increase would be more representative of the staff time associated with reviewing garden suite proposals.

Official Community Plan Consistency Statement

This initiative advances the following broad objectives contained in the OCP:

- 13 (a) – That housing development responds to future demand and is facilitated through land use policies and practices.
- 13 (c) – The existing supply of rental housing is expanded through regeneration.
- 13 (d) – A wide range of housing choice is available within neighbourhoods to support a diverse, inclusive and multigenerational community.

CONCLUSIONS

The current Garden Suite Program has been in place for almost five years and has (at the time of writing this report) resulted in the approval of 77 garden suites, with applications for a further 16 currently in process. The program is generally working well, however, staff have identified some areas that would benefit from amendments, including updates to the *Garden Suite Policy and Design Guidelines* which would delete redundant language, better align the guidelines with current City Policy and address identified design challenges. In addition, amending the application fees would better represent the staff time associated with processing garden suite proposals.

Respectfully submitted,

Jim Handy
Manager, Planning and Regulatory Services
Development Services

Karen Hoesel, Director
Sustainable Planning and Community
Development Department

Chelsea Medd
Planner
Development Services

Report accepted and recommended by the City Manager.