



**CORPORATION OF THE TOWNSHIP OF ESQUIMALT
ADVISORY PLANNING COMMISSION
MINUTES
HELD ON
MAY 26, 2009
COUNCIL CHAMBERS**

MEMBERS PRESENT: Gerald Froese, Chairperson
Joanne Kimm
Rod Lavergne
Darwin Robinson
Ramona Scott
Ed Williams

REGRETS: Jaime Hilbert

STAFF LIAISON: Barbara Snyder, Director of Development Services
Trevor Parkes, Senior Planner

COUNCIL LIAISON: Randall Garrison

SECRETARY: Marie Letham
RECORDING SECRETARY: Julie Fuller

There were seven members of the public in attendance.

I. CALL TO ORDER

The Chair called the meeting to order at 7:00 p.m. and outlined the meeting procedures and advisory role of the Advisory Planning Commission. He stated that recommendations are made as a Commission and not as individuals.

II. ADOPTION OF AGENDA

Moved by Darwin Robinson, seconded by Ed Williams that the agenda be adopted as distributed
The motion **CARRIED**.

III. ADOPTION OF MINUTES

Moved by Joanne Kimm, seconded by Ramona Scott that the minutes of the regular meeting of April 21st, 2009 be adopted as distributed.
The motion **CARRIED**.

IV. BUSINESS FROM MINUTES

There was no outstanding business from the minutes of April 21, 2009.

V. STAFF REPORT

Barbara Snyder, Director of Development Services, gave a brief overview of how the Draft Bylaw for Secondary Suites has been developed. She stated that over the past year Staff have researched the Secondary Suite policies of numerous cities. The Draft Bylaw incorporates elements of several municipalities. The Director advised that this bylaw is a first draft and changes are expected. The bylaw has not been reviewed by municipal solicitors at this stage. When all the amendments to the regulations are incorporated, the bylaw will be forwarded to Municipal Solicitors for review.

Barbara Snyder informed the Commission that there is an Open House scheduled for Thursday, May 28th. Also there will be an opportunity for members of the public to discuss the Draft Bylaw with Councillors at Buccaneer Days and another Open House to be held in June.

Barbara Snyder advised the Commission that at the Monday, May 25th Council meeting the time line outlined on page 5 of the report attached to the Commission Agenda is no longer valid. Final adoption of the bylaw will be after Council's summer recess.

The Director of Development Services presented a short power-point presentation.

APC Discussion:

Ed Williams stated he is in favour of the Secondary Suites Draft By-law, although he has parking concerns in older neighbourhoods with no opportunity for off - street parking. He raised two concerns: the first being whether secondary suites will require a separate electrical meter. He also asked if a second civic address would be required on the outside of houses in order for emergency personnel to find the suite entrance in an emergency situation. Barbara Snyder commented on assignment of civic addresses given to suites, a second address would be given, and if there are not enough numbers available to keep the numbering chronological "a's " and "b"s will be used after the main civic addresses. She also mentioned that a lighted pathway will be mandatory for easier entrance to the suite, as well doorways will be clearly marked. Ed Williams raised the question on how owners will monitor electrical usage if the suite is not metered separately. Trevor Parkes, Senior Planner, responded that a second electrical meter is not required. A suggestion was made regarding creating a registry of suites which would enable staff to have access to documents and information within the registry.

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Ramona Scott stated that she is in agreement with the bylaw for all the reasons outlined in the report. She commented there are a lot more positives than negatives and thinks it's a good idea. However, she asked for clarification on Section 219 Covenants. Will applications be required to register a Section 219 Covenant on the property title? Is this something that is being contemplated and if so who would pay?

Barbara Snyder responded, yes, a covenant would be required and that this would be the property owner's responsibility.

Ramona Scott inquired about duplex zoning, specifically when a lot is zoned a duplex and paying taxes for a duplex, even though it's a single family dwelling, would there be a consideration for a duplex lot to pay higher taxes?

Barbara Snyder stated that BC Assessment uses an "Actual Use Code". Assessments are done on actual use of the property, not the zoning. BC Assessment, using property information from Municipal Hall, can access zoning and building permit records.

Ramona Scott commented there is a parking issue and suggested special variances would have to be applied on a case-by-case basis for off-street parking. Trevor Parkes responded owners could seek a development variance permit. Ramona Scott stated her opinion that parking is very strict right now and thinks it will be difficult to meet the bylaw in a few cases.

Ramona Scott asked about the condition for private space in reference to the front yard. Barbara Snyder stated that the suite occupant must have access to a private useable open space. In reference to parking, Barbara Snyder stated parking is the cause of most concern with suites, and causes most complaints, Municipal Staff are trying to be careful with this issue. Barbara Snyder agreed they would have to consider older homes on a case by case situation and ultimately, they are trying to avoid front yards with green space being paved over.

Darwin Robinson stated he is totally in favour of this bylaw and feels it is long overdue. He stated that it is nice to see Council tackle this issue which has been around for a long time. He asked how the issue of a strata title duplex, with an in-law suite will be handled on a strata title lot?

The Director of Development Services, stated that secondary suites are not allowed in duplexes. The bylaw is not intended to legalize duplexes that would become fourplexes. She stated that the definition of a single family has been revised to ensure clarity on this issue.

Darwin Robinson remarked on the owner occupier clause and asked on the legalities of what an owner occupier is and whether part of this status can be sold. Barbara Snyder was not familiar with this and would need to look into this further. He commented that there is a parking problem and suggested using the front yard in older houses as parking lots, with the use of "grass-crete" to give the illusion of green space. He stated that he is totally against residential only parking.

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Darwin Robinson raised the question of Senior's Tax Deferral eligibility and whether having secondary suite revenue causes them to lose their eligibility for senior's tax deferral.

Barbara Snyder stated she would have to check with Finance regarding this.

Darwin Robinson feels the clause regarding private space will create animosity with renters and owners, causing the municipality to be drawn in as a referee. He also feels issues over fencing of the private space will be raised.

Joanne Kimm remarked the bylaw is a great idea. She commented that the term "business licence" was confusing to her and commented renting a home or suite is not a business. She suggested a specifically named Secondary Suite Registry will help separate businesses from secondary suites.

Joanne Kimm stated parking will be an issue. She stated she lives in a strata –duplex if she suites downstairs, she would have to take away part of front yard which is would be ugly. Additionally, she commented that people will park on the street.

Joanne Kimm asked for clarification of (of Schedule "D" Bylaw No. 2708 , Section 3 (13) (attached to the agenda) will there be a requirement for people to declare 6 months or yearly? Barbara Snyder responded,yes, yearly. If a complaint is raised regarding the suite the owner may have to re-confirm owner occupancy.

Rod Lavergne commented that the Secondary Suite Draft Bylaw should be uncomplicated and stated the impact of Secondary Suites on parking to be negligible. Rod Lavergne commented that suites require two breakers (not two meters) He suggested the municipality review the Town of View Royal's procedure for using a registry, whereby the owners' register annually by signing a Statutory Declaration. He also commented that fines could be levied against those who are in violation of the by-law, similar to other municipalities. Rod Lavergne requested the Municipality look at View Royal's legal opinion to determine how they went through this process. He stated that he objected to the idea of having a business licence.

Rod Lavergne made comments regarding the owner occupied status, seeking clarification on this point. He feels it is almost impossible to enforce.

Rod Lavergne made further comments on auxiliary buildings and Strata Title Duplexes with reference to the Building Code. Rod Lavergne suggested the Municipality's secondary suite definition and bylaw enforcement practices be reviewed. He commented that a single family dwelling in the Official Community Plan (OCP) doesn't need to be changed but questioned the definition of a strata title duplex, wondering if it is classified as two single dwellings or not.

With reference to parking, Rod Lavergne expressed his opinion that we do not have a parking problem in Esquimalt and suggested there should be a limit on how many cars, boats, recreation vehicles residents should be allowed to have.

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Joanne Kimm raised the question on the Secondary Suite garbage can limit and inquired if there is any thought to increasing the limit to three cans? Joanne Kimm suggested an extra fee per year for additional cans per suite could be applied. Barbara Snyder commented she will look into this.

Gerald Froese stated he approves of the Draft Bylaw subject to further revisions at a later date and stated the need for secondary suites is there. He has some concerns, parking is an issue in a high density neighbourhoods. He requested clarification on the point of suite occupants having a dedicated spot in the driveway for their car, thereby forcing the owners to park their second car (if they had one) on the road.

Barbara Snyder responded, yes, this could happen.

Gerald Froese inquired about the private space clause, whether it should be an agreed to or dedicated space?

Barbara Snyder responded there was merit for the need of private space for small children to play and adults to feel some connection to the outdoors. Dedicated outdoor space would give renters a better sense of privacy and security. She stated that the private space is a contentious issue as Darwin Robinson pointed out.

Gerald Froese also commented on the garbage issue asking for further clarification on attaching stickers to extra garbage bag(s). Questions were directed to the Director of Development Services regarding owner occupied status and whether owners can rent out both the upstairs and downstairs of the property?

The Director of Development Services responded, that the bylaw states that the owner must reside on the property, as absentee landlords have caused problems in the past. It was noted that different municipalities are insisting on the owner occupied status to be included in their Secondary Suites Bylaws.

The Chair re-iterated Rod Lavergne's philosophy for the need of increased bylaw enforcement.

Ramona Scott inquired about owners who don't register their secondary suites, wondering how the municipality would find out those who don't register.

Barbara Snyder suggested the first year you can apply to be placed on the registry without a fee. If, however, a secondary suite is not entered onto the registry within the proposed timeframe, owners would have to apply and pay the first year's fees. She commented that it is more common now to register suites than 10-15 years ago. There will be people who are reluctant to register their suites, as they may not be able to bring them up to meet the Building Code.

Darwin Robinson raised the question again, "what is our objective?" and stated it is to create safe housing with minimal impact on the community. He advised that the municipality should think long-term by offering incentives, perhaps to have a period of time where the building inspection is a free service (i.e. 5 years) so we give people

encouragement to come in and do what they can. He stated he likes the idea of a registry.

Rod Lavergne commented on the policy of bylaw enforcement with respect to secondary suites and suggested the municipality revert back to its previous policy of 2 written complaints within 100 metres of the alleged illegal suite before they are acted upon.

Public Input

Gloria Edwards, owner of 1240 Bewdley Avenue stated the following:

- that secondary suites should be taxed fairly;
- that suites aren't put in for housing purposes but for revenue, therefore, BC Assessment should assess and tax each property accordingly. She referred to the lot sizes of the single family dwelling as her lot is a large lot, she feels she is paying for duplexes.
- that she is paying for suites as she feels renters do not take any ownership of the property, they just pay their rent and go. Not worried about property taxes;
- that why should she subsidize for suites, two cans is sufficient;
- that parking is an issue, doesn't want to see grass-crete in front of properties for parking cars;
- that there are too many cars lined up on all Esquimalt roads.
- that the incentive for suites is for people to gain revenue;
- that suites should be registered;
- that the term business licence should not be used;
- that owners are already putting illegal suites in property that have Covenants registered on title, which mean nothing as bylaw enforcement needs to improve;
- that the private useable space clause will create problems with unsightly belongings placed front of the house;
- that owner occupied must be enforced;
- that when you look at guest houses, nothing wrong with them if they are done appropriately.

Rudi Denys, owner, 870 Cunningham Road comment:

- that he was in favour of looking at existing suites and the possibility for new ones;
- that the term owner occupied is too narrow and suggested it be changed to "family occupied".
- that owner occupied isn't always synonymous with good care;
- that he requested a clarification of a Section 219 Covenant; (the Director of Development Services explained a Covenant is registered on the title of the property, insisting that a property owner does/ does not do something relating to their property)
- that the term business licence, should be called "rental income"
- that with reference to the private useable space; as a 20-year residential landlord he would say that most renters aren't interested in having their own private useable space, he further suggested that any complaints should be addressed under the Residential Tenancy Act.
- commented that Langford and Victoria allow carriage houses and questioned if The Township of Esquimalt will consider them as well ?

(Director of Development Services commented that Esquimalt is looking at suites first and will be looking at secondary buildings in the future).

Mary-Anne Erickson, owner, 436 Constance Avenue made the following comments:

- that she lives in on a waterfront zoned property, requested clarification whether secondary suites will be allowed in single family dwellings within the waterfront zone?
(Barbara Snyder explained waterfront zone (RS-3) is a single family zone, which would permit secondary suites.
- that there are problems with tenants in secondary suites, dogs and people running on her property, causing her to try and have the suite shut down. Efforts have been made to speak with owners who say they are talking to the tenants but the issues remain;.
- that concerning bylaw enforcement, would like to see fines issued to those not adhering to secondary suite bylaw;
- that she agrees with property being owner occupied
- that bringing secondary suites up to Code will be difficult to do;
- that parking is an issue in Esquimalt;
- that owners of suites should pay double for sewer and garbage;
- that she would like to see an area within Esquimalt that is zoned as single family dwelling area only and questioned why we can't have that.

Emmy Labonte,owner, 873 Dunsmuir Road, commented on the following:

- outlined history regarding her strata title duplex property that she owns. With reference to electricity metering issues, she feels owners can monitor the usage of electricity themselves and would notice any illegal activity;
- commented the municipality should relax the parking bylaw or owners will use part of their front yards for parking, reducing green space. She also commented on street parking might reduce the speed of traffic (as the road narrows due to parked cars) so people will become more careful.
- that the municipality could have stickers for people parking on the street and for the extra garbage;
- that the useable private space should be agreed upon between the renter and the landlord and feels that forcing homeowners to have green space is difficult;
- that if the municipality makes it too difficult and expensive for homeowners on this issue it will be reflected in the rent that the tenants must pay, defeating the goal to have affordable rents;
- that the property should be owner occupied but would like the municipality to look into it more, reviewing on a case-by-case point.
- that two garbage cans is ample and any increased garbage should be paid for with stickers;
- that many renters care about our municipality, they volunteer to clean up streets and shop locally;
- that carriage houses, and apartments that are built above garages could look attractive.

Christian Degagne, owner, 957 Wollaston Street commented:

- that he expressed his congratulations to the municipality and is in favour of the program of legalizing secondary suites;
- that he purchased an older home in Esquimalt and wishes to demolish it and rebuild a new home with a legal secondary suite on the lot;
- that his concern is that he would create a legal suite with green space, parking, and pays a business fee without any incentive, meanwhile others are doing it illegally and nothing is being done about it. Not fair.
- that he would like to see an incentive offered to owners to legalize suites in order to resolve the issue.

Discussion

Rod Lavergne agreed that incentives should be given and Esquimalt should waive building permit fees. He would like to use the Town of View Royal's Secondary Suite ByLaw (with Suite type 1 & 2 system) and would like to obtain a copy of the Town of View Royal's legal opinion regarding the secondary suite bylaw. He stated that he would like to see the bylaw implemented within single family dwellings as soon as possible. He commented he has concerns with multiple cars in single family dwellings and would like to refer to Council on this point.

Joanne Kimm stated suites are already there and expressed the need for a registry to be in place, restating her point to refrain from calling it a business licence. She would like to see implementation of some kind of incentive for homeowners.

Ed Williams reiterated the one issue that has recurred was the fact that the municipality is considering a business licence for secondary suites. He finds this confusing for someone renting a suite to be charged a business licence and is concerned this may affect taxation. He would vote in favour of the bylaw as long as the business licence wording is changed to create a registry.

Ramona Scott commented that she has appreciated everyone's point of view and feels this is a win-win situation as the municipality wins, the renters wins and the owner wins. She also thinks it will increase property values as they are assessed at a higher value. She also remarked that renters are just as good citizens as non-renters and the quality of a citizen doesn't have anything to do with whether they are a renter or not. Ramona Scott proposed we move forward to Council with a recommendation of approval, but would like the following to be considered: delete dedicated private space; delete term business licence and use a registry instead; offer incentives (i.e. waiving permit fees and no registry fees for five years); offer enough parking flexibility to take into account trees, green spaces, hedges; delete owner occupied and introduce family occupied that requires a Statutory Declaration to be signed; charge a fee to pay for extra garbage service required.

Darwin Robinson reiterated that the objective is to create safe housing with minimal impact on the community; how do we do that? He stated he would vote in favour if the following changes were considered: delete dedicated private space; keep it simple; offer incentives; create a registry instead of a requirement for a business licence; and delete owner occupied requirement.

The Chair summarized that everyone is on same page and stated there are good renters and bad renters; as well as good and bad neighbours but we don't have control over that. The Chair remarked that Ramona Scott did a great job summarizing five key recommendations, three of which Darwin Robinson listed.

RECOMMENDATION:

Moved by Darwin Robinson, seconded by Ramona Scott that the Esquimalt Advisory Planning Commission (APC) resolves to recommend to Council to approve of the Draft Secondary Suite By-law with the following recommendations:

1. Delete "private space" requirement;
2. Delete "owner occupied" requirement;
3. Create a registry instead of a requirement for a business licence;
4. Keep the by-law simple;
5. Provide flexibility in the parking requirements;
6. Provide some type of incentive (waive fees).

The Motion **CARRIED UNANIMOUSLY**

VI. PLANNER'S STATUS REPORT

Trevor Parkes, Senior Planner, reported the status on the following applications:

- 513 Sturdee Street on May 4, 2009 Council recommended approval of the Development Permit for a non-strata duplex;
- 934/936 Craigflower Road (Rezoning and Development Permit application for a 13-unit Townhouse development) on May 4th, 2009, Council gave for first and second reading to the amending bylaw and instructed Staff to schedule Public Hearing;
- 860 Admirals Road on June 1, 2009 Council recommended approval of the Development Permit for a strata-title duplex;
- 677 Admirals Road on June 1, 2009, Council recommended approval of the Development Variance Permit;
- 1206 Wychbury Avenue on June 1, 2009, Council recommended approval of the Development Variance Permit

VII. COUNCIL LIAISON

Councillor Garrison expressed his appreciation for the input from the public and the Commission members at this evening's meeting.

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Councillor Garrison reiterated the reason for this evening's meeting which is to submit a Secondary Suite Draft Bylaw for discussion, and for comments to be forwarded to Council. Council is open to advice from the Commission as well as input from public at an Open House on Thursday, May 28, 2009 and also there will be an information booth on the Secondary Suites Draft Bylaw, with Councillors in attendance at Buccaneer Days to gather further input from the public.

VIII. NEW BUSINESS

No new business.

IX. NEXT REGULAR MEETING

Tuesday, June 16, 2009

Ramona Scott reminded the Commission that she will not be in attendance for the June meeting.

X. ADJOURNMENT

On motion the meeting adjourned at 9:30 p.m.

Certified Correct

Gerald Froese, Chairperson