

SUBJECT: COMPREHENSIVE INTERIM REPORT
Update on Phase 3A of Markham’s New Comprehensive Zoning By-law Project – Rooming Houses, Short-Term Accommodations and Secondary Suites
File No. PR 13 128340

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RECOMMENDATION:

1. THAT the report dated February 26, 2018 titled, “COMPREHENSIVE INTERIM REPORT: Update on Phase 3A of Markham’s New Comprehensive Zoning Bylaw Project – Rooming Houses and Short-Term Accommodations and Secondary Suites – File No. PR 13 128340” be received; and,
2. THAT the presentation titled, “Interim Report Rooming Houses, Short Term Accommodations and Secondary Suites” be received.

PURPOSE:

The purpose of this report is to provide an update on Phase 3A of Markham’s New Comprehensive Zoning By-law Project. This report provides additional background information relating to rooming houses and short-term accommodations pursuant to the Development Services Committee’s (DSC’s) direction from the October 3, 2017 Public Meeting. The current status relating to secondary suites (also part of Phase 3A of this project) are also summarized in this report. Staff’s recommendation relating to rooming houses, short term accommodations and secondary suites will be presented to DSC at a special evening meeting on the evening of March 27, 2018.

BACKGROUND:

Phase 3A New Comprehensive Zoning By-law Project

In March 2016, Gladki Planning Associates (GPA) was retained by the City to complete work on Phase 3A of the New Comprehensive Zoning By-law Project. Phase 3A is a review of potential zoning and licensing regulations for secondary suites, rooming houses and short-term accommodations. This project is scheduled to be completed in Q2 2018.

Phase 3B, being the completion of the remaining work on the New Comprehensive Zoning By-law, began in Q4 2016 and is expected to be completed by Q2 2019.

Issue – Rooming Houses and Short-term Accommodations

Markham’s Official Plan contains policies with respect to shared housing and bed and breakfasts, however, there are no specific policies with respect to rooming houses or short-

term accommodations. Furthermore, boarding or rooming house is not listed as a permitted use in any zoning designation in Markham, and only 27 of the 42 parent by-laws in the City provide a definition of this use. Short-term accommodations are also not defined or permitted in any of Markham's zoning by-laws. Inclusion of new Official Plan policies and zoning definitions for rooming houses and short-term accommodations will assist in regulating these uses.

The zoning strategy proposed by Staff and the consultant, informed by public and DSC feedback, is to define these uses in the proposed zoning amendments but not permit them "as-of-right" in any area of Markham. In this way, a site specific zoning by-law amendment to permit a new rooming house or short-term accommodation would be required. If approved, the amendments to the Official Plan will set out criteria for evaluating these applications. This strategy would ensure that each proposed rooming house or short-term accommodations would undergo a thorough evaluation based on local area characteristics, and relying on compliance with policies proposed to be incorporated into the City's Official Plan.

Secondary Suites

The Planning Act identifies affordable housing as a matter of provincial interest with secondary suites playing a key role in the provision of affordable housing. The Region of York's Official Plan requires local municipalities to adopt official plan policies and zoning by-law provisions that facilitate secondary suites. Section 4.1.2.6 of Markham's Official Plan states that "it is the policy of Council to support the diversification of housing tenure by providing for the establishment of secondary suites within existing and new permitted dwellings." However, secondary suites are not permitted in most of Markham's current zoning by-laws, except for areas of Cornell, Cathedral Town & Angus Glen or those that were legally in existence prior to November 16, 1995. The legislative requirements from Bill 140 (The Strong Communities Through Affordable Housing Act) included amendments to the Planning Act in 2012, and these requirements are supported in the Region of York and Markham Official Plans. Based on the 2012 amendments to the Planning Act, the City is required to authorize secondary suites in single detached, semidetached and townhouse dwellings.

PROCESS TO DATE:

Preliminary recommendations on rooming houses and short-term accommodations considered by (DSC) July 28, 2016

A Special DSC meeting was held on July 28, 2016 to consider preliminary recommendations for addressing rooming houses and short-term accommodations in Markham. The City's consultant, Mr. John Gladki of Gladki Planning Associates (GPA) presented several options for consideration at the meeting.

Following the discussion on rooming houses and short-term accommodations at the July 28, 2016 meeting, DSC requested that staff report back on potential areas in Markham where rooming houses and short-term accommodations may be permitted, prior to holding

an Open House on October 11, 2016. Staff presented further options and recommendations at the September 19, 2016 DSC meeting, including that rooming houses should not be permitted in any zone, and that short term accommodations could be permitted in any residential zone subject to appropriate licensing.

Open House held on October 11, 2016 to obtain public comment

An Open House and presentation was held on October 11, 2016 to obtain feedback on preliminary recommendations made by GPA for addressing secondary suites, rooming houses and short-term accommodations in Markham. The Open House was well attended with approximately 100 members of the public and 11 members of Council present. The majority of comments received pertained to rooming houses and short-term accommodations, with most not in support of permitting these forms of accommodation anywhere in Markham. However, the comments provided were generally supportive of secondary suites, subject to certain conditions such as ensuring units are safe for inhabitants, and that entrances to these units are appropriately located.

Statutory Public Meeting held December 6, 2016 to obtain public comment on proposed zoning by-law amendments

A Statutory Public Meeting under the Planning Act was held on December 6, 2016 to obtain feedback on preliminary recommendations made by GPA and City Staff for addressing secondary suites, rooming houses and short-term accommodation in Markham. Based on the feedback received at the October 11, 2016 Open House, GPA revised its original draft recommendations to state that rooming houses and short term accommodations should not be permitted in any zone as of right.

The Public Meeting was well attended, and 14 members of the public spoke on the matter. In addition to this, 15 written submissions were received on the matter. The majority of comments received pertained to rooming houses and short-term accommodations, with most persons opposed to permitting these forms of accommodation anywhere in Markham.

DSC referred the matters relating to secondary suites, rooming houses and short-term accommodations back to staff for further review of potential new Official Plan policies and zoning by-law amendments relating to rooming houses and short-term accommodations.

Revised Recommendations presented to Council on June 13, 2017

On June 12, 2017, DSC reviewed Staff's strategy for addressing secondary suites, and refined recommendations on addressing short term accommodations and rooming houses. Council's resolution on June 13, 2017 approved, in principle, the strategy for the implementation of secondary suites in Markham and directed staff to prepare a final recommendation report and zoning by-law amendments for secondary suites. Staff were further directed to report back on proposed Official Plan and zoning amendments related to short term accommodations and rooming houses.

Over the summer of 2017, GPA updated their preliminary recommendations on the matter of rooming houses and short-term accommodations, in response to comments received at

the December 6, 2016 Public Meeting and DSC direction from the meeting of June 12, 2017. An update report was sent to DSC on September 25, 2017 to provide additional information on the project and background including a recommendation to incorporate new policies in the Official Plan regarding these land uses. A further Statutory Public Meeting was held on October 3, 2017, since Official Plan amendments were now being proposed.

Statutory Public Meeting held on October 3, 2017

A Statutory Public Meeting was held on October 3, 2017 to obtain feedback on the proposed Official Plan and Zoning By-law Amendments made by GPA and City Staff for addressing rooming houses and short-term accommodations in Markham. The Public Meeting was well attended with two written submissions and 12 oral deputations.

The deputants varied in their opinions with six deputants including four Airbnb operators that spoke in support of allowing short term accommodations as of right. Three deputants did not support short term accommodations as of right. Four deputants spoke in support of rooming houses with restrictions, since they were of the opinion that these could help address housing affordability. Four deputants did not support rooming houses, citing concerns with overcrowding and irresponsible landlords.

The Committee also discussed locational parameters associated with rooming houses in that they should be restricted to arterial roads that are adequately served by public transit.

The resolution from DSC at the statutory Public Meeting was to refer the Official Plan and Zoning By-law Amendments back to staff for a comprehensive interim report (this report) by appropriate departments, for consideration by DSC followed by a special evening DSC meeting.

DISCUSSION:

Recommendations to be presented at the special evening meeting of DSC on March 27, 2018 respecting Rooming Houses, Short-Term Accommodations and Secondary Suites

A number of options were presented to DSC at the December 6, 2016 Public Meeting for addressing rooming houses and short term accommodations. Initial draft recommendations from GPA included defining and not permitting rooming houses and permitting but licensing short term accommodations. Recommendations from GPA for secondary suites included permitting a secondary suite in all detached, semi-detached and townhouses (excluding the Special Policy Area and Markham Centre), with provisions and conditions, including updates to the Registration By-law, the Property Standards By-law, and a public communication/education program.

Informed by public input and DSC feedback received to date, GPA recommends the following amendments to all City zoning by-laws and amendments to the 2014 Official Plan (see Appendix 1).

Rooming Houses

Zoning

It is recommended that a City wide Zoning By-law Amendment be adopted by Council to define “rooming house large scale”, “rooming house small scale” and “dwelling unit” in all Markham zoning by-laws, **but not permit the use “as-of-right” in any area of Markham.** Any proposal to establish a “Rooming House” use in Markham would require an amendment to the zoning by-law to permit the use on a particular property, which would trigger neighbourhood notice and a Public Meeting in each case. Defining these uses would be instrumental in assisting with proper enforcement, as officers will have a clear indication from a zoning perspective of what exactly constitutes a “Rooming House” in Markham.

The proposed definitions are as follows:

“Rooming House Large Scale means a building where lodging is provided in return for remuneration or services (or both) in more than 5 lodging rooms and where lodging rooms do not contain both bathroom and cooking facilities for the exclusive use of individual occupants and may include one *dwelling unit* in addition to the lodging rooms, but does not include a residential use with support services.”

“Rooming House Small Scale means a building where lodging is provided in return for remuneration or services (or both) in 3 to 5 lodging rooms and where lodging rooms do not contain both bathroom and cooking facilities for the exclusive use of individual occupants and may include one *dwelling unit* in addition to the lodging rooms, but does not include a residential use with support services.”

”Dwelling Unit means a unit consisting of one or more rooms, which contains cooking, eating, living and sanitary facilities and is not a *rooming house*.”

Official Plan

It is recommended that the 2014 Official Plan be amended to add subsection iii. to 8.13.9.1.b) [Shared Housing section] as follows:

“that the location of *shared housing* in the form of a rooming house shall be restricted to permitted building types on an arterial road adequately served by public transit and built in accordance with all applicable codes, by-laws and regulations.”

Short-Term Accommodations

Zoning

It is recommended that a zoning bylaw amendment be adopted by Council to define “short-term accommodations” in all Markham zoning by-laws, **but not permit this use “as-of-right” in any area of Markham.** Any proposal to establish a “short-term accommodation” use in Markham would require an amendment to the zoning by-law to permit the use on a particular property, which would trigger neighbourhood notice and a Public Meeting in each case. Defining the use would be instrumental in assisting with proper enforcement, as officers will have a clear indication from a zoning perspective of what exactly constitutes a “short-term accommodation” in Markham.

The proposed definition is as follows:

“Short term accommodation” means an establishment that operates or offers a place of temporary residence, lodging or occupancy by way of concession, permit, lease, license, rental agreement or similar commercial arrangement for overnight accommodation, for one or more periods of less than 30 consecutive days, and not more than 180* total days over the duration of the calendar year, within a single dwelling that is the principal residence of the proprietor of the establishment.

- * *Changed from 60 days as a result of public input and consistent with the restrictions set out by the City of Toronto. City Staff and GPA are of the opinion that this increase will still identify a STA as an incidental and subordinate use of the affected lands.*

Official Plan

It is recommended that an Official Plan Amendment be prepared addressing the following items:

1. A new Official Plan definition of “short term accommodation” be included as follows:

“Short term accommodation means an establishment that operates as or offers a place of temporary residence, lodging or occupancy by way of concession, permit, lease, license, rental agreement or similar commercial arrangement for overnight accommodation, for one or more periods of less than 30 consecutive days, and not more than 180 total days over the duration of the calendar year, within a single dwelling that is the principal residence of the proprietor of the establishment.”
2. Add the term “short term accommodation in accordance with Section 8.13.11 of this Plan” to Sections 8.2.3.2 (Residential Low Rise – Uses), 8.2.4.2

(Residential Mid Rise – Uses), 8.2.5.2 (Residential High Rise – Uses) and, 8.3.1.2 (General Policies – Mixed Use).

3. Add a new section 8.13.11 as follows:

“8.13.11 [under Specific Use Policies] Short term Accommodation

It is the Policy of Council:

8.13.11.1 That in considering an application to amend the zoning by-law to permit *short term accommodation*, Council shall be satisfied that the *short term accommodation* shall be accommodated within a permitted building type in accordance with all applicable codes, by-laws, regulations and all other policies of this Plan.”

Secondary Suites

The most important reason for legalizing secondary suites is safety. Many secondary suites exist, but do not comply with zoning by-laws, and have not obtained permits to ensure compliance with the Ontario Building Code, and Fire Code. While Fire Inspectors have more latitude to gaining access to units to ensure compliance with the Fire Code, they are limited in what they can disclose to by-law enforcement and building officials.

By-law enforcement officers can only gain access to inspect the units that do not comply with the zoning by-law, and only once there is a complaint filed, and they have reasonable grounds to suspect that there is a secondary suite on the premises.

The Building Code Act and Ontario Building Code requires permits to establish a second dwelling unit in a house either through a building permits for construction [under section 8 of the Building Code Act] or through change of use permits [under section 10 of the Building Code Act]. Building permits would typically include the construction of exits and means of egress, windows, fire separations, bedrooms, kitchens and living space and the plumbing and mechanical systems necessary to support. Change of use would be the conversion of an existing finished space into a second dwelling unit where construction is not proposed. A change of use permit requires the evaluation of existing construction to support the new dwelling unit. If the space requires upgrading to meet certain fire and life safety requirements, then a building permit for construction is necessary. Change of use permits are not that common.

Informed by public and DSC feedback from the December 6, 2016 Statutory Public Meeting; DSC direction from the meeting of June 12, 2017, the Planning Act, the

Region of York Official Plan, and Markham's Official Plan, GPA recommends the following amendments to all City zoning by-laws (see Appendix 2).

Zoning

It is recommended that a zoning bylaw amendment be enacted by Council to define and extend the permission for secondary suites in Markham. The by-law includes a number of the conditions for a secondary suite as provided for in the Official Plan. These conditions also reflect feedback from the public and members of Council. The conditions are set out as follows:

One accessory dwelling unit is permitted in a detached house, semi-detached house or townhouse in any zone provided:

- a) both the principal dwelling unit and the secondary dwelling unit are wholly contained within the same detached, semi-detached or townhouse dwelling;
- b) there are no more than two dwelling units on the same lot and that the secondary dwelling unit does not contain lodging rooms;
- c) each dwelling unit has a floor area of no less than 35m²;
- d) no more than one dwelling entrance is contained within any main wall facing a streetline;
- e) the entrance to either the principal or secondary dwelling unit is not through the garage door;
- f) no additional parking spaces are required for the secondary suites; and,
- g) all other provisions of Markham's zoning By-laws are complied with.

The proposed new City-wide (excluding the Special Policy Area and Markham Centre), definitions are as follows:

"Detached house" means a single residential structure containing no more than two dwelling units.

"Floor Area" means the aggregate of the areas of each floor of a dwelling unit above or below established grade, measured between the exterior faces of the exterior walls, but not including the floor area of a private garage.

"Garage Door" means the door of a private garage that permits a motor vehicle to access a private garage from the outside.

"Main Wall" means the exterior front wall of a building and all structural components essential to the support of a fully enclosed space.

"Principal Dwelling Unit" means a dwelling unit that has a floor area that is greater than the floor area of the other unit in the same building.

"Semi-detached house" means a residential structure which is one of two horizontally attached residential structures and is separated vertically from the other residential structure by a common wall which does not provide internal access from the living space in one structure to the other.

"Secondary Dwelling Unit" means a dwelling unit that has a floor area that is less than the floor area of the other unit in the same building.

"Streetline" means the boundary between a public street and a lot.

"Townhouse" means a residential structure which is one of a group of three or more horizontally attached residential structures and is separated vertically from one or two of the other structures by common walls which do not provide for internal access from the living space in one structure to another.

Registration By-law

Legally existing secondary suites prior to November 16, 1995, must be registered as a two unit dwelling with the Fire and Emergency Services Department under the City's Registration By-law (308-97). The Registration By-law applies only to units that were legally in existence prior to November 16, 1995. This by-law needs to be amended in order to apply to secondary suites that would become legal once the zoning by-law amendment extending the permission for secondary suites is approved. The Registration By-law requires renewal of registration once every five years to ensure continued compliance with all applicable codes and standards. The by-law includes provisions for a registration fee. Council may also wish to consider waiving registration and inspection fees for a limited period of time once the zoning by-law amendments are approved, in order to encourage compliance. This period could coincide with a public information campaign about the importance of complying with safety requirements and the need to register a secondary suite.

The draft Registration By-law can be found in Appendix 2.

NEXT STEPS:

After the special evening meeting of DSC on March 27, 2018, a final recommendation report proposing zoning and official plan amendments for rooming houses and short-term accommodations as well as zoning amendments for secondary suites will be presented to DSC for consideration. The target date for this report is April 30, 2018.

FINANCIAL CONSIDERATIONS:

The Finance, Fire, By-law Enforcement, and Building Departments have been consulted in the drafting of this report.

Under the proposed regulations, rooming houses and short-term accommodations would remain uses which are not permitted as of right, and therefore would not trigger any additional financial considerations. Should DSC wish to permit either of these uses as of right in a zone, further evaluation of the financial implications would be required, and would be provided in later reports. Further, if a Planning Act application was submitted to permit either of these uses on a property, financial considerations would be taken into account during the application review.

Staff have included background material related to proposed policies and standards associated with secondary suites in this report to inform the discussion on rooming houses and short term accommodations. Preliminary financial information related to secondary suites was provided to DSC in the June 12, 2017 report. Detailed financial considerations will be included in Staff's final 3A report targeted for April 30, 2018.

HUMAN RESOURCES CONSIDERATIONS:


N/A

ALIGNMENT WITH STRATEGIC PRIORITIES:

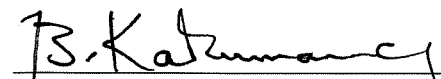
This Project aligns with the City's strategic priority of Growth Management by implementing the New Official Plan and establishing a zoning framework to guide future development in the City. This project also aligns with the City's strategic priorities relating to quality customer service by providing improved access to up-to-date zoning and Official Plan information.

BUSINESS UNITS CONSULTED AND AFFECTED:

This City-wide Project affects many City Departments including Finance, Fire and By-law Enforcement, and Clerks. All relevant City departments have been consulted extensively throughout 3A of this Project.

RECOMMENDED BY:

Ron Blake, MCIP, RPP
Acting Director
Planning & Urban Design



Biju Karumanchery, MCIP, RPP
Acting Commissioner
Development Services

Attachments:

- Appendix 1 Consultant's Revised Draft Report on Rooming Houses and Short-Term Accommodations – February 2018 which includes Draft Zoning By-law and Draft Official Plan Amendments
- Appendix 2 Consultant's Revised Draft Report on Secondary Suites – February 2018 which includes Draft Zoning By-law Amendments and Draft Registration By-law
- Appendix 3 Presentation to Development Services Committee – February 26, 2018