



The Corporation of the District of Saanich

Report

To: Mayor and Council
From: Sharon Hvozdzanski, Director of Planning
Date: April 28, 2022
Subject: Garden Suites – One-Year Program Review
File: 2140-50 • Garden Suites

RECOMMENDATION

1. That Council receive the One-Year Program Review for information.
2. That Council direct Planning Staff to bring forward amendments to the Zoning Bylaw and Official Community Plan Bylaw as outlined in the Report to a future Council meeting to address minor refinements and improvements to the current regulatory framework.
3. That Council direct Staff to bring forward amendments to the Delegation Authorization Bylaw and Land Use and Procedures Bylaw to expand delegation authority to include the Manager of Current Planning and Director of Planning, in addition to the Manager of Community Planning.
4. That Council direct Planning Staff to continue to monitor implementation of the Garden Suite Program, including through the Two-Year Report Review.

PURPOSE

The purpose of this Report is to provide Council with a One-Year review of the Garden Suite Program and identify recommended changes to regulations.

DISCUSSION

Background

For over a year, it has been legal to construct a garden suite on an eligible RS-zoned property through a Development Permit process.

When the regulatory framework was first endorsed, Council passed the following motion:

“Review and report back to Council on the Garden Suite Program one and two years after the regulatory changes are formally enacted.”

This Report provides the One-Year Program Review and offers an opportunity to assess implementation of the Program and consider whether any changes are required. The two-year review will be an opportunity to share more complete information with Council on Program uptake, as well as construction trends and costing.

Additionally on January 24, 2022, Council made the following motion regarding information to include in the One-Year Program Review.

“That Council request that the upcoming Staff Report on Garden Suites includes criteria for converting existing accessory buildings to Garden Suites.”

Applications

As of the end of October 2021 (one year mark since regulations enacted), 67 Development Permit applications have been received by Planning. Of those applications, 25 have received approval. Of the 67 garden suite applications received in the first year, 57 have been for new garden suites and 10 have been for the conversion of existing accessory buildings to legal garden suites. Map 1 below shows the distribution of applications within the Garden Suite Area, as of October 31, 2021. Active applications are yellow and approved applications are green.

Staff have been granted delegated authority to approve all proposed garden suites that meet the Zoning requirements. All variances must go to Council for a decision. The breakdown of the applications by number of applications delegated to Staff and variance applications (approved by Council) are outlined below:

Delegated DPs	48
Approved Delegated DPs	19
DPs with variance (Council)	19
Approved DPs with variance	6

Variances

Approximately a quarter of the applications submitted included variances. The types of variances being requested and the frequency of those requests are outlined below. Some applications include multiple variances.

- Siting (12)
- Gross floor area (5)
- Total rear lot coverage (4)
- Separation distance (3)
- Total lot coverage for accessory buildings (2)
- Setbacks (2)
- Extension of the Sewer Service Area (1)

Application Timelines

In order to construct a garden suite, a Development Permit is required for Form and Character and a Building Permit is then required for construction to ensure Building Code requirements are met.

For applications received since the inception of the Garden Suite Program, the average time to complete a Delegated Development Permit without variances is approximately four months. Some applications have been completed as quickly as two months. A Development Permit with variances that goes to Council for a decision has taken an average of four and a half months.

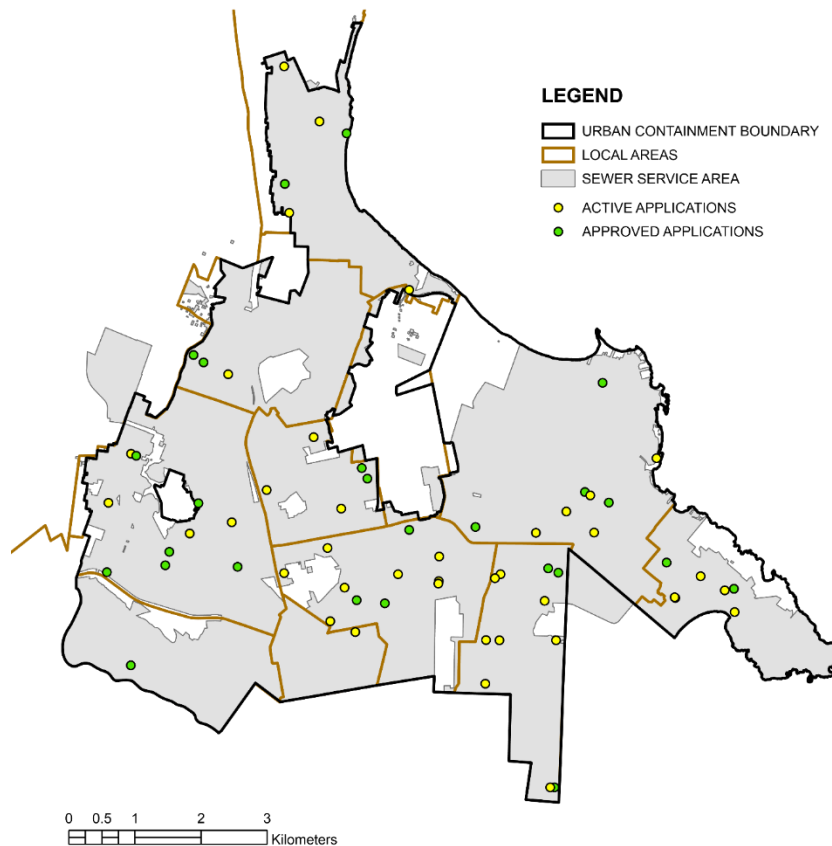


Figure 1: The Distribution of Development Permit applications for Garden Suites in the District of Saanich (October 2020 – October 2021)

Building Permits

A total of 17 Building Permit applications for garden suites have been received since October 2020. Nine Building Permits have been issued as of October 2021.

PROGRAM REVIEW FINDINGS

In order to evaluate progress over the past year for the purposes of informing this Report, Staff have undertaken the following:

- Maintained statistics on applications and review milestones;
- Documented issues and comments from applicants and community members;
- Designed a survey that was completed by applicants who have gone through the development permit process;
- Designed a survey that was completed by designers involved in the Development Permit process;
- Held meetings with Internal Staff groups discussing application processes; and

- Held a feedback session with the Advisory Design Panel.

Based on the experience of Staff administering the Garden Suite Program (Program), and input from Owners, Designers and Builders, a number of issues have been identified that warrant further analysis. Key issues identified include the Development Permit process requirements, application processing times, variances, and the conversion of accessory buildings to garden suites.

Results of Consultation

The following is a summary of the feedback received through consultation with Staff, Owners and Designers/Builders. Where appropriate, recommendations are provided to respond to findings.

Successful Elements

Overall, the first year of the Garden Suite Program has been a success. In the first year we received 67 Development Permit applications, which represents a significant level of interest in the Program. By comparison, when Victoria revised their Program to include a delegated Development Permit (instead of a rezoning), they Reported 58 Development Permits received between 2017 and 2019, which works out to 19 applications per year.

Based on feedback received, the success of the District of Saanich's Program can be attributed to the fact that the regulatory framework is comprehensive and clear. There have been no major issues with implementation of the regulations or Design Guidelines, and the amendments outlined in this Report amount to minor changes that would improve clarity.

The Program Guides (A, B and C) have been well received and applicants have noted that the guides have helped them navigate the application process from Development Permit through to a Building Permit, as well as understand the zoning regulations. A number of applicants have stated that they have had a positive experience working with the District of Saanich Staff on their garden suite applications.

Development Permit Requirement

Some applicants provided feedback that they think the processing of a Development Permit adds time and cost to a project, and is unnecessary. Some comments included a preference that the requirement for a Development Permit be removed and that garden suites that meet zoning requirements be approved through a Building Permit only.

The Development Permit is the tool that enables enactment of the Design Guidelines for garden suites. The Guidelines supplement the more prescriptive requirements of the Zoning Bylaw and are a vital tool to address livability, privacy, green space and integration into the neighbourhood. The Guidelines provide direction on key elements of the Form and Character of garden suites such as building massing and design, lighting, site layout and landscaping. Importantly, they provide an opportunity to closely examine a site and optimize outcomes related to tree retention, usable open space, and livability for the garden suite, the primary dwelling and for neighbours.

The results of the statistically significant survey that was conducted during the Garden Suite Study indicated that the majority of respondents (75%) supported the use of Design Guidelines to address elements of building and site design.

The benefits of the Design Guidelines (and Development Permit), include a more robust conversation with applicants about issues of livability for tenants and adjacent neighbours, as well as opportunities to address concerns about privacy, noise, visual impacts, and preservation of green space and trees. Overall, adherence to the Design Guidelines leads to improved garden suite designs that directly benefit residents by improving liveability and minimizing impacts to the surrounding neighbourhood.

Application Processing Times

The average approval time for a Development Permit for a garden suite is four months. A focused look at the timelines for individual projects suggests that the majority of the reviews from various departments is done quickly. Generally speaking, there are sometimes delays in the review process when issues with trees, servicing, and covenant registration come up.

Referrals to Other Departments

Application referrals to the District of Saanich departments typically take two weeks. Referrals to the Parks Division, currently takes one to three months. This is largely due to a high volume of applications, lack of resources to complete reviews in a timely manner, submission of incomplete or incorrect Development Plans, and a multi-stepped review process that involves one or more site visits by Parks Staff. As a result, applications often require more than one review by Parks Staff.

If Servicing issues arise, they are typically related to stormwater servicing and/or potential impacts on Bylaw protected trees. Garden suites are required to connect to the Municipal storm system. Approximately 77% of RS-zoned properties in the District of Saanich currently have storm connections, but for the remaining 23% of properties, servicing requirements can be challenging to meet and can cause delays in application processing times.

With respect to trees, proposed service alignments often conflict with Bylaw protected trees. When this occurs, Parks, Engineering and Planning Staff work collaboratively with an applicant to identify alignments that will minimize tree impacts. This process can take time and can result in additional steps and the need for plan revisions.

There can also be delays on the applicants end. When an applicant receives a Summary Letter with comments from the District of Saanich departments, they work with their professional team (e.g. Designer/Builder, Arborist, Surveyor) to address the comments and resubmit plans. Development professionals are currently busy and it is taking more time for some professionals to revise and resubmit plans. While the timelines of external development professionals are not within Staff's control, efforts are made to provide information up front and to minimize the number of revisions that are required.

Registration of a Covenant:

A Section 219 Covenant is a requirement of zoning for a garden suite. It is the mechanism to ensure that garden suites remain rental housing by preventing them from being subdivided and separately titled.

Currently, the District of Saanich Legal Division prepares the covenant documents and the applicant's lawyer coordinates registration. Staff are aware that it can take one to two months to register a covenant at the Land Title Office. The timelines at the Land Title Office are not within Staff control, but efforts are made to notify applicants of potential delays and encourage them to initiate the covenant process earlier, rather than later.

Planning Staff continue to monitor all aspects of the application process for garden suites and where needed, implement changes to shorten processing times. This may include improving communications with residents to help avoid potential delays. As part of the two year review, there may be opportunities to explore options to further address processing times.

Variances

To date, 19 Development Permits with variance applications have been received. Council has reviewed and approved six of these applications. Siting is the most common variance requested, followed by increases in gross floor area and decreases in rear lot coverage. In a number of cases, applicants have requested more than one variance.

Amendments to the Zoning Bylaw are recommended to permit garden suites on double-fronting lots or for siting of garden suite in a side yard. These amendments would help to reduce the number of variances and allow an easier pathway for applicants who have unique lot conditions or unconventional siting of the primary dwelling.

Staff will continue to monitor the types of variances being requested to determine if further changes are warranted and include reporting as part of the two year review. A potential option is to expand delegation authority to Staff to include the ability to approve certain types of variances at the Staff level.

Accessory Buildings Converted To Garden Suites

A number of property owners have expressed interest in converting existing accessory buildings to garden suites. In the first year of the Garden Suite Program, the Planning Department received ten such applications. Some of these applications were prompted by Bylaw Enforcement cases where illegal occupation was occurring, while others were initiated by owners who were seeking to add rental income/address family circumstances.

Criteria For Accessory Building Conversions

As previously noted in the Report, Council has requested that Staff include criteria for converting existing accessory buildings to Garden Suites. The desire of this motion is to provide clarity on the circumstances where a conversion would be supported.

In general, Staff try to work with applicants to provide a pathway to legally convert their accessory building to a garden suite, while addressing the objectives of the regulatory framework. In the majority of cases, a pathway can be found where the building can meet the intent of the Zoning Bylaw and Design Guidelines with limited changes to enhance conditions related to privacy and livability.

In assessing potential conversions, all elements of the Design Guidelines and Zoning Bylaw are considered. Varied site and building conditions require a site by site assessment to identify an optimal response. Key questions to inform the assessment include:

- Does the accessory building meet the intent of the regulatory framework and key objectives around site design, livability, neighbourhood fit and privacy?;
- What is the extent of variances (i.e. minor or major)?;
- Can changes be made to bring the building into conformance with regulations or reduce the extent of potential variances?;
- What mitigation measures can be incorporated to address potential livability and privacy issues?;
- Was the accessory building constructed with a Building Permit?; and

- Was the accessory building constructed when Garden Suite Regulations were being developed or in place already?

Key challenges can arise related to separation distance from the primary dwelling, which is 1 m for an accessory building and 4 m for a garden suite and open space requirements, which are a key part of Garden Suite Guidelines, but not addressed in Accessory Building Regulations.

Staff will support the vast majority of conversion projects providing owners work to address site issues to a reasonable extent. Examples of requested enhancements can include:

- Adding fencing or landscaping to increase screening and privacy;
- Adding operable windows to improve livability and natural ventilation; and
- Expanding the area of open/permeable space and incorporating the planting of new trees.

Instances where projects would not be supported are:

- Property owners are unwilling or unable to address significant livability or privacy issues (i.e. no windows in the Garden Suite, building adjacencies without sufficient screening to provide privacy); and
- The building dramatically exceeds allowances outlined in the Zoning Bylaw (i.e. an application for 120 m² Garden Suites, where the maximum permitted size is 65 m²).

Building Code Compliance

With respect to life safety issues, Building Conversion Projects can have a number of Building Code deficiencies due to the fact they were constructed to the standard of an accessory building and not permitted for residential purposes. In addition, these buildings may require Home Warranty Insurance, which is administered the Licensing and Consumer Services Branch at BC Housing.

Older accessory buildings are more likely to have significant Code deficiencies, which can be difficult and costly to address. In some cases, Staff have received applications for Garden Suites where the owners are seeking to legalize existing accessory buildings that were constructed without Building Permits. This is a challenging situation, as the building is already constructed and it is unlikely to meet the Health and Safety requirements under the BC Building Code.

Recent Accessory Building Construction

Since October 2020, 38 Building Permits have been issued for accessory buildings. Anecdotally, Staff are aware that owners are applying for accessory buildings that look like they could easily be converted to a residence (e.g. the Floor Plan includes separate rooms and a washroom) once the inspection process is completed. In some cases, owners are doing this to avoid the regulatory requirements and costs associated with a Development Permit for a garden suite and/or the costs of conforming to residential requirements of the Building Code.

As part of the regulatory framework for garden suites, Council adopted Zoning Bylaw amendments related to accessory buildings in order to reduce their overall size (through lot coverage) and restrict construction of basements or crawl spaces. Based on the data, it appears that most owners are choosing to go through the legal process to construct a garden suite.

However, some owners are choosing to construct accessory buildings that can be converted (legally or illegally) to residential buildings at a later date. A number of these accessory buildings have been brought to Staff attention through Bylaw Enforcement cases.

Staff will continue to track and monitor accessory building applications and enforcement issues and identify if any additional regulatory changes are needed.

Constructing a New Single Family and Garden Suite Concurrently

A couple of residents have expressed challenges with sequencing the construction of a garden suite in conjunction with a single family dwelling. As a garden suite is an accessory use to a single family dwelling, a single-family dwelling must exist or there must be an approved single family dwelling building permit in order for a garden suite building permit to be issued.

On a lot where the intention is build a new single family dwelling and new garden suite, both applications can be processed concurrently. However, the Development Permit requirement for garden suites can mean that the garden suite approvals can take longer than single family approvals. This is consequential, as economies of scale and efficiencies are gained when an applicant can build a single family dwelling and garden suite at the same time. If garden suite approvals take longer than this alignment of construction can be impacted.

Staff try to work with applicants to address this challenge. In some instances, an applicant may choose to apply for an accessory building permit in the short term, construct both structures concurrently and then apply to convert the accessory building to a garden suite in future. This approach presents some issues/challenges, but can be an option in certain circumstances.

Requirement for Storm Water Connection for Garden Suites

A key barrier expressed by some residents is the requirement for stormwater connections for garden suite projects. The issue is particularly noticeable in areas where there is no stormwater main and can make the construction of a garden suite cost prohibitive. To address these concerns, Engineering Staff will be bringing forward a Report to Council on options to address this issue. This Report is targeted for Q2 2022.

PROPOSED CHANGES

Variances

The Zoning Bylaw specifies that a garden suite must be sited in the rear yard. The purpose of this regulation is to allow gentle infill in established residential neighbourhoods, while minimizing the visual impact of garden suites.

Given the number of variance applications received, Staff recommends amending the rear yard siting requirement to potentially allow garden suites in:

- Side yards; and
- Front yards on double-fronting lots.

These changes would reduce the number of variances for non-standard lot configurations and double-fronting lots. There is more certainty for applications without variances and they typically move more quickly through the review process as Zoning Bylaw requirements are met.

Reducing the number of variance applications reduces Staff and Council workloads and shortens approval timeliness. It would also reduce some work for Staff and allow applications to

be processed more efficiently. Of the 12 siting variances that the District of Saanich has received this year, 8 would no longer require a variance, if the regulations were amended, as suggested above.

Minor Bylaw Amendments

Staff have identified some minor items through implementation of the Garden Suite Program, which if addressed as amendments to the regulations, would help improve clarity and fill in minor information gaps.

As they are general items, Staff recommend that they be addressed, as a whole, through amendments to the Zoning Bylaw and Official Community Plan Bylaw. The items are outlined in Table 1 below.

Table 1: Minor Bylaw Amendments

BYLAW	AMENDMENTS
Zoning	<ul style="list-style-type: none"> • Add a Garden Suites map to the Zoning Bylaw to show permitted properties and provide clarity around location of Broadmead Covenant Area • Amend Section 5.35 to permit Garden Suites on properties within the Urban Containment Boundary and/or the Sewer Service Area • Expand areas where Garden Suites can be sited to include side yards and front yards on double-fronting lots (in addition to rear yards) • Minor text amendments to provide clarity
Official Community Plan	<ul style="list-style-type: none"> • Amend the Garden Suites map in the Design Guidelines to remove the Broadmead Covenant Area and add properties within Urban Containment Boundary • Section 2.6 of Design Guidelines – text about additional trees • Section 2.7 of Design Guidelines - graphics for bike shelters
Delegation Authorization	<ul style="list-style-type: none"> • Expand delegated authority to include Manager of Current Planning and Director of Planning

Amend the Geographic Scope of Garden Suites to Include Properties Within the Urban Containment Boundary

The Terms of Reference for the Garden Suite Study specified the geographic scope to include RS-Zoned properties in the Sewer Service Area (SSA). The SSA closely aligns with the Urban Containment Boundary (UCB), but includes 63 additional properties. Staff is recommending minor amendments to the mapping in the Official Community Plan (Design Guidelines) and Zoning Bylaw, as well as a text change in the Zoning Bylaw to clarify that properties are eligible for a Garden Suite if they are located on RS-zoned properties in the Sewer Service Area and/or the Urban Containment Boundary.

Councils decision to establish the SSA as the geographic area for garden suites was based on a desire to ensure that more properties would be eligible to build a garden suite. There are properties that are inside the UCB, but outside the SSA. In some cases, part of the property is inside the SSA and part is not.

This change would allow 135 new properties to be permitted to have a garden suite. All of these properties are currently permitted to have secondary suites so this amendment would create consistency in the application of regulations.

Add a Map In the Zoning Bylaw to Show Areas Where Garden Suites are Permitted

It is proposed that a map be added to the Zoning Bylaw that identifies where garden suites are permitted. The primary purpose of the map would be to provide clarity on the exclusion of the Broadmead Covenant Area. This approach is similar to what has been done in the Zoning Bylaw for Secondary Suites.

Minor Zoning Bylaw Text Amendments

Minor amendments to the Zoning Bylaw are recommended to improve clarity for Staff and applicants. These changes are not intended to change the intent/effect of the regulations, but to improve clarity and ease of interpretation.

Design Guideline Updates

Minor amendments to the Design Guidelines are recommended to provide clarity for Staff and applicants regarding desired tree conditions and bike shelter design.

Expansion of Delegated Authority

Currently the authority to approve garden suite Development Permits is delegated to the Manager of Community Planning. In their absence the authority is granted to the Director of Planning, with the Manager of Current Planning as a second back-up. Initial processing of garden suite applications resided with Community Planning, as a means to test recently developed policy. That responsibility will now be transferred to Current Planning.

As part of the amendments proposed, it is recommended that Council expand approval authority for garden suite Development Permits to the Manager of Current Planning and Director of Planning, in addition to the Manager of Community Planning. This change would provide additional coverage when Staff are away from the office or when there is a conflict of interest. This change also reflects the change in the primary application processing responsibilities from the Manager of Community Planning to the Manager of Current Planning.

ALTERNATIVES

1. That Council approve the recommendations as outlined in the Staff Report.
2. That Council reject the recommendations as outlined in the Staff Report.
3. That Council provide alternative direction to Staff.

FINANCIAL IMPLICATIONS

The proposal has no immediate implications related to the District of Saanich Financial Plan.

INTERDEPARTMENTAL IMPLICATIONS

The Garden Suite Program has resulted in an increase in the volume of development applications being received and processes being managed by Staff. This is impacting Staff workloads across the organization, especially in the Parks Division.

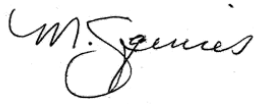
New resources added as an outcome of the Development Process Review will assist partner departments and help accelerate the referral process. Planning Staff continue to monitor the review process and troubleshoot any issues that may slow down their response time.

CONCLUSION


The regulatory framework has performed well through implementation. The value of the Development Permit process is the ability to address issues of livability for tenants, privacy for neighbours, protection of trees and greenspace, and ensuring a good fit within neighbourhoods. For these reasons, Staff believe the requirement for a Development Permit should be maintained.

Staff continue to monitor application processing times and where needed, implement changes to shorten timelines and improve communications with applicants about potential delays.

As part of the One-Year Program Review, Staff recommend a number of minor amendments to the regulatory framework to improve clarity and enhance process efficiency. Should Council endorse Staffs recommendation, subsequent bylaw amendments would be brought forward for Councils consideration. Additionally, a Two-Year Report Review would provide a more fulsome indicator of Program outcomes and potential additional refinements.

Prepared by: 

Megan Squires
Planner

Reviewed by: 

Cameron Scott
Manager of Community Planning

Approved by: 

Sharon Hvozdzanski
Director of Planning

MS/jsp

ADMINISTRATOR'S COMMENTS:

I endorse the recommendation from the Director of Planning.

Brent Reems, Chief Administrative Officer