

Report

Date August 17, 2022

File: 3360-20 17.25

Subject **Zoning Amendment Bylaw No. 3685 (3181, 3183 Gibbins Road; R3 to R3-MF),
2018 for second reading**

PURPOSE

To consider second reading of Zoning Amendment Bylaw No. 3685, 2018 *as amended* to permit a four-plex on the subject property.

BACKGROUND

Application

Following ongoing bylaw compliance issues since the 1980's regarding two illegal secondary suites within a permitted duplex on the subject property, i.e., one illegal suite within each half of this side-by-side duplex, the property owner is requesting that Council consider increasing the residential density by rezoning the subject property from the Residential One and Two Family Zone (R3) to Residential Medium Density Multi-Family Zone (R3-MF) in order to permit a four-plex.

The existing duplex was constructed under an approved building permit with occupancy granted in 1977. However, two suites that were subsequently added within the building were not constructed under a building permit. Further, the subject property is located within the R3 Zone, which limits the residential density of the property to a maximum of two residential units within one residential building.

First Reading

At first reading of Zoning Amendment Bylaw No. 3685, 2018 on May 2, 2018, Council requested the following items conditional to scheduling second reading:

1. A BC Building Code (BCBC) analysis of the existing residence by an architect to ascertain the extent of upgrades required for the intended use of four residential suites within an existing duplex;
2. A letter of commitment from the property owner to undertake the upgrades to the existing residential building as identified in the BCBC analysis; and
3. Registration of a notice on the title of the subject property under section 57 of the *Community Charter* that building regulations have been contravened.

These conditions are now completed.

The rezoning report, presented to the Community Planning Advisory Committee and Council, dated April 5, 2018, is provided in Attachment 1.

The May 2nd, 2018 Council minutes are provided in Attachment 2. The excerpt of the Minutes pertaining to Zoning Amendment Bylaw No. 3685 is provided in Figure 1.

Figure 1. Excerpt from Council Minutes from May 2, 2018 Regular Council Meeting

7. BYLAWS

7.1 Bylaw 3685 - "Zoning Amendment Bylaw (Gibbins Road), 2018"

It was moved and seconded:
That Council:

1. read a first time "Zoning Amendment Bylaw (Gibbins Road), 2018", No. 3685,
2. require the owner to provide a code analysis prepared by an architect to identify necessary upgrades to bring the fourplex into substantial compliance with the BC Building Code and a letter of commitment to undertake the work identified in the analysis, and
3. give notice that it intends to register a notice on title under section 57 of the *Community Charter* that building regulations have been contravened.

CARRIED

DISCUSSION

To fulfill Council's direction, the applicant has provided the following documentation:

1. BC Building Code Analysis (Attachment 3)
2. Notarized Letter of Commitment to Complete Works (Attachment 4)

Additionally, staff have:

3. Registered on the title of the subject property a notice on title under section 57 of the *Community Charter* that building regulations have been contravened. (Attachment 5)

Finally, the proposal to convert the existing duplex to a four-plex inadvertently does not meet the density provision of the requested R3-MF Zone.

For the existing duplex on the subject property to be converted to a four-plex *and* be compliant with the density requirements of the R3-MF Zone as requested, the amendment bylaw (No. 3685) presented initially at first reading will need to be revised.

Therefore, an amendment to Bylaw No. 3685 is proposed for Council's consideration that would allow a maximum of four dwelling units on the subject property.

1. BC Building Code Analysis

A Building Code review conducted by Stellar Architectural Consulting concluded that:

"Significant items and conditions noted in this review, along with any additions and partition alterations to the original building permit drawings, will need to be addressed in a future building permit to bring this property up to the standards of the BC Building Code 2018" (Author, Mr. Eddie Williams Architect AIBC, MRAIC).

Staff are satisfied that the BC Building Code analysis meets the requirements of Council's May 2, 2018 resolution, and that that the review was conducted by a professional architect.

The BC Building Code analysis is provided in Attachment 3.

2. Letter of Commitment

A notarized letter of commitment from the property owner, dated April 26, 2022 states that:

- Building upgrades are for the purpose of a four-plex and not for strata conversion, and
- A building permit application for residential building upgrades consistent with the BC Building Code analysis will be submitted within 90 days of successful rezoning.

A letter from Eddie Williams, Architect AIBC, MRAIC from Stellar Architectural Consulting, dated August 13, 2019 indicates that the BC Building Code analysis (Attachment 3) is in support of the zoning amendment request to allow conversion of the existing side-by-side duplex to a four-plex "... suitable for rental to four Tenants ..." (LTR E Williams, August 13, 2019).

The notarized letter from the property owner as well as the letter of support from Eddie Williams Architect AIBC, MRAIC is provided in Attachment 4.

3. Section 57 Notice on Title

Council requested that a Notice under section 57 of the *Community Charter* be registered on the title of the subject property prior to consideration of second reading. A notice was registered on the title of the subject property by staff on July 12, 2018.

The updated title of the subject property showing the Notice is registered is provided in Attachment 5.

4. AS AMENDED, Zoning Amendment Bylaw No. 3685

This zoning amendment request is intended to permit a four-plex on the subject property. While the property owner wishes to upgrade the existing residential structure, should the property be successfully rezoned from R3 to R3-MF (Residential Medium Density Multi-Family Zone), a new residential building to a maximum residential density as permitted in the R3-MF Zone could also be constructed.

Yet, the proposed use of the existing duplex residential building for 4 residential units inadvertently does not comply with all density provisions of the R3-MF Zone. While the proposed use of the existing building complies with the maximum permitted floor area ratio of 0.5:1, **the minimum site area per dwelling unit of 230 m² (2,476 ft²) on the 875 m² (9,418 ft²) subject property would permit only 3.8 units, or 3 residential units.**

As the parcel area would permit only 3 residential units, and the intent of the property owner is to conduct building upgrades to the existing duplex to accommodate a four-plex (Attachment 4), an additional site specific amendment to Zoning Amendment Bylaw No. 3685 is recommended for Council's consideration of second reading.

The density provisions of the R3-MF Zone (Zoning Bylaw No. 2950, 58.3(5) are:

Density

- (5) The permitted density for the R3-MF zone is as follows:
- (a) Minimum site area per dwelling unit 230 m² (2,476 sq. ft.)
 - (b) Maximum permitted floor space ratio is 0.5:1.

Staff recommend that Council consider giving second reading to Zoning Amendment Bylaw No. 3685 **as amended** by adding the following site specific provision to section 58.3(5) [Density] shown in **bold**:

"Density

- (5) The permitted density for the R3-MF zone is as follows:
- (a) Minimum site area per dwelling unit 230 m² (2,476 ft²)
 - (b) Maximum permitted floor space ratio is 0.5:1.
 - (c) **Despite section (5)(a), the minimum site area per dwelling unit of 215 m² (2,314 ft²) is permitted at 3181/3183 Gibbins Road."**

Proposed Zoning Amendment Bylaw No. 3685, as amended, maintains that the location for a four-plex was supported in the report to Council, dated April 5, 2018, which considered the rezoning proposal for multi-family use of the subject property is consistent with Official Community Plan (No. 3450) policies for increased residential density within the Growth Centre designation within the Urban Containment Boundary, and toward an increase in variety of housing types (OCP policies 2.5.2.8, 2.5.2.1). The Report to Council dated April 5, 2018 is provided in Attachment 1.

Zoning Amendment Bylaw No. 3685 as presented at first reading is provided in Attachment 6.

Zoning Amendment Bylaw No. 3685 as amended for consideration at second reading, is provided in Attachment 7.

The conditions requested by Council to be fulfilled prior to scheduling second reading are completed, and it is recommended that Council give second reading of Zoning Amendment Bylaw No. 3685 *as amended*.

OPTIONS

1. (Recommended Option)

1. THAT Council amend "Zoning Amendment Bylaw No. 3685, 2018" by inserting the following:
 - "2. Zoning Bylaw 1997, No. 2950, section 58.3 (5) [R3-MF, Density] is amended by inserting the following:
 - "(c) Despite section (5)(a), the minimum site area per dwelling unit of 220 m² (2,368 ft²) is permitted at 3181/3183 Gibbins Road".";
2. THAT Council give second reading, as amended, to "Zoning Amendment Bylaw No. 3685, 2018"; and

3. THAT Council schedule a Public Hearing for "Zoning Amendment Bylaw No. 3685, 2018" and notification be issued in accordance with the *Local Government Act*.
2. THAT Council give second reading to "Zoning Amendment Bylaw No. 3685 (3181/3183 Gibbins Road; R3 to R3-MF), 2018"; and
THAT Council schedule a Public Hearing for "Zoning Amendment Bylaw No. 3685, 2018" and notification be issued in accordance with the *Local Government Act*.
3. THAT Council abandon second reading of "Zoning Amendment Bylaw No. 3685, 2018".

IMPLICATIONS

Should Council approve the rezoning of the subject property from R3 to R3-MF to permit an increase in residential density to a maximum of four residential units, the property owner would be permitted to upgrade the existing duplex to a four-plex to BC Building Code and municipal Building Bylaw standards under an approved building permit issued by the Municipality, or demolish the existing residential building and construct a multi-family residential building on the subject property to a maximum density of 4 residential units.

If after 90 days, with a successful rezoning of the subject property from R3 to R3-MF, the property owner does *not* apply for a building permit to complete the necessary residential building upgrades for the permitted multi-family residential use, as stated in the notarized letter signed by the property owner dated April 26, 2022 (Attachment 4), and the use of the residential building contravenes BC Building Code and municipal Zoning and Building Bylaws, then the Building and Bylaw Compliance departments would proceed with bylaw enforcement to bring the use of the building into compliance with these standards.

If Council denies application ZB00070, the residential density at 3181/3183 Gibbins Road would be restricted to 2 units. Any illegal suites located within the existing duplex would be required to be removed.

RECOMMENDATION

1. THAT Council amend "Zoning Amendment Bylaw No. 3685, 2018" by inserting the following:
 - "2. Zoning Bylaw 1997, No. 2950, section 58.3 (5) [R3-MF, Density] is amended by inserting the following:
 - "(c) Despite section (5)(a), the minimum site area per dwelling unit of 220 m² (2,368 ft²) is permitted at 3181/3183 Gibbins Road".";
2. THAT Council give second reading, as amended, to "Zoning Amendment Bylaw No. 3685, 2018"; and
3. THAT Council schedule a Public Hearing for "Zoning Amendment Bylaw No. 3685, 2018" and notification be issued in accordance with the *Local Government Act*.

Report prepared by:

Caroline von Schilling

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Report reviewed by:



Rob Conway, MCIP, RPP
Director, Planning and Building

Approved to be forwarded to Council:



Ted Swabey
Chief Administrative Officer

Attachments:

- (1) Report to Council, April 5, 2018
- (2) Council Minutes, May 2, 2018
- (3) BC Building Code Analysis
- (4) Letter of Commitment, April 26, 2022 and Letter of Support, August 13, 2019
- (5) Updated Title with registered Notice
- (6) Zoning Amendment Bylaw No. 3685, as considered at first reading
- (7) Zoning Amendment Bylaw No. 3685, as amended for second reading