Agenda - Executive Policy Committee - November 14, 2007

PUBLIC HEARINGS

Item No. 1 **Appeal - Plan Winnipeg By-law No. 7630/2000 - 111 Symington Road (Transcona Ward)**
File EP-1.1(PW)

On September 20, 2007, Wendy Raap appealed the decision dated September 12, 2007, issued by the Zoning and Permits Administrator, Planning, Property and Development Department, regarding provisions of The Plan Winnipeg By-law No. 7630/2000 for the premises located at 111 Symington Road.

The decision stated:

The proposal is contrary to Section 3B-08 of Plan Winnipeg as a full range of municipal services is not currently available to service the development.

Consequently, the application to vary The Winnipeg Zoning By-law No. 6400/94 is refused without a hearing pursuant to Section 275(2)(a) of The City of Winnipeg Charter.

Appellant: Wendy Raap (for Ian Raap)

Premises Affected: 111 Symington Road

Exhibits Filed:

1a. Decision dated September 12, 2007, issued by the Zoning and Permits Administrator, Planning, Property and Development Department

1b. Communication dated August 29, 2007 from the Senior Planner (Plan Winnipeg), Planning, Property and Development Department

2. Notice of Appeal filed by Wendy Raap (for Ian Raap) received September 21, 2007

3. Notification of Public Hearing dated October 3, 2007

4. Report from the Acting Director of Planning, Property and Development Department dated November 8, 2007

REPRESENTATIONS:

In Support of the Appeal:

In Opposition to Appeal:

For Information on the Appeal:

For the City:

Moved by Councillor

That the receipt of public representations be concluded.

Moved by Councillor

That the Appeal(s) be allowed / allowed in part / denied and the decision of the Zoning and Permits Administrator, Planning, Property and Development Department, be confirmed / cancelled.

Moved by Councillor

That the public hearing with respect to this appeal be concluded.

Winnipeg

Planning, Property & Development Department • Service de l'urbanisme, des biens et de l'aménagement

Development and Inspections Division• Division de l'aménagement et des inspections
Inspections • Inspections

In reply please refer to: Martin Grady

(204) 986-5147
Fax / Téléc. : (204) 942-2008

September 12, 2007

Ms. Wendy Raap
123 McFadden Ave.
Winnipeg, MB
R2C 3E4

RE: APPLICATION TO VARY ZONING BYLAW NO. 6400/94
111 SYMINGTON ROAD

With reference to your request to vary the provisions of the R1-20 zoning district for the establishment of a lot not serviced by the full range of municipal services at the above referenced location. Please be advised that the proposal is contrary to Section 3B-02 of Plan Winnipeg as outlined in the attached letter from the Plan Winnipeg Planner.

Consequently, your application is hereby refused without a hearing pursuant to Section 275(2)(a) of the City of Winnipeg Charter.

You may appeal this decision by submitting a letter to the Clerk of the Executive Policy Committee at the following address:

City Clerks Department
Main Floor Council Building
510 Main St.
Winnipeg, MB
R3B 1B9

Attention: Jo-Ann Park
Clerk, Executive Policy Committee
Phone: 986-3157

Yours truly,

Martin Grady
Zoning and Permits Administrator

Exhibit “1b” for EP-1.1(PW) - 111 Symington Road

In reply please refer to / Référence à rappeler : **M. Richard**
(204) 986-3101

August 29, 2007

Wendy Raap
123 McFadden Ave
Winnipeg, MB R2C 3E4

Dear Ms. Raap:

RE: YOUR APPLICATION TO VARY ZONING BY-LAW NO. 6400/94
FILE 07-144066C (PLEASE QUOTE WHEN REPLYING)

Your application to vary “R1-20” (By-law No. 6400/94) by allowing for the establishment of a lot not serviced with municipal sewer and/or water systems and the construction of a single family dwelling on the lot, has been forwarded to myself to deterimine compliance with Plan Winnipeg 2020 Vision.

As we discussed, this application is contrary to Plan Winnipeg 2020 Vision, the City’s development plan. Specifically, Plan Winnipeg 2020 Vision Policy 3B-02 states that the City shall guide the development of new and existing residential areas designated as Neighbourhood on Policy Plate A by:

i.) requiring developments to provide a full range of municipal infrastructure in an environmentally-sound, economical and timely manner;
ii.) preparing detailed secondary plans for future neighbourhoods in consultation with residents and buiness interestes to ensure the coordination of local and regional services and the compatibility of land uses and other objectives;
iii.) ensuring that existing neighbourhoods are protected and adopting secondary plans to govern development in existing neighbourhood where warranted (those neighbourhoods currently governed by secondary plans are identified on Policy Plate A);
iv.) evaluating new residential development proposals according to appropriateness of location and assessing their long-term impact within an evaluation framework established in consultation with the development industry; and
v.) encouraging the abatement of relocation of livestock operations and other incompatible uses before adjacent new development is permitted.

Sec. 275(2)(a) of The Winnipeg Charter requires that all applications that do not conform with Plan Winnipeg or a secondary plan for the area must be refused without a hearing. As the appropriate designated employee, the City’s Zoning and Permits Administrator will follow up with you, formally advising you that your application has been refused and outlining how you can appeal this decision.

Yours truly,

Michelle Richard
Senior Planner
Plan Winnipeg

cc: Martin Grady, Zoning and Permits Administrator
John Wintrup, District Planner

V:1Urban&Neighbourhood\Plan Winnipeg\2007 Interpretation Memos\111Symington Rd-w.raap

Exhibit "2" for EP-1.1(PW) - 111 Symington Road

September 20, 2007

RECEIVED
CITY CLERKS
WINNIPEG

7 SEP 21 A9:18

The City of Winnipeg
City Clerks Department
Main Floor Council Building
510 Main Street
Winnipeg, Manitoba
R3B 1B9

Attention: Jo-Ann Park
CC To: Martin Grady, Councilor Russ Wyatt

Dear Ms. Park:

We have received the letter refusing our application for variance of the zoning bylaw # 6400/94, re; 111 Symington Road, and would like to appeal this decision.

We feel we have been mis-represented throughout the whole procedure, from the decision to purchase the property, to when we brought in the building permit. The schedule of events, ie: phone calls, I wrote down, complete with dates. They are as follows:

On April 3rd, I called the permits office, and asked what the zoning on the property was. No one said anything about the "lot of record". Just informed me of the side yard requirements, which is 10 feet per side, and the front and back, which is 30 and 30 feet respectively. They informed me that the lot was zoned R-120, residential. They then referred me to John Winthrop, in the planning department, who referred me to Terry Rowe, of the water division. Terry informed us of the requirement regarding the well and holding tank. The tank must be a minimum of 1500 gallons, and advised us to go with fiberglass as opposed to concrete. The well and holding tank must be 50 feet apart, and his advice was to put the holding tank in the front of the property, in case services should ever come down Symington Road.

Upon all the above information we decided to purchase the property on April 5, 2007, and our offer was agreed to on April 6, 2007. Plans were drawn up,

and I called the permits office again regarding the civic address, and was given 111 Symington within approx. 5 minutes. Again, no word about "lot of record". When the plans were completed I brought them into the permits office, knowing that we did not have 10 foot side yards, but also knowing that we could apply for a variance in this regard. We were given a form to fill out, for the neighbors to sign regarding this, and all 4 neighbors did so. (they have all also indicated their willingness to attend any appeal meeting we may have to attend, to speak in our favor).

Again, we spoke with Terry Rowe regarding the well and holding tank, and he advised us that we would have to go to the Prov. Water stewardship in regards to the well, and he would be there to inspect the holding tank when it was put in. He also made the comment that a holding tank is so much cleaner than a septic field, as the water and waste is contained, and not saturating the ground. There is also no smell associated with the process of the holding tank either, and all waste water would be emptied into it, including the "gray water", which many residents along Symington simply drain into the ditch.

On July 25th Julia from the City called me and informed me about the fact that our lot was not a "lot of record". I met with John on August 1, 2007, and explained what we intended to "do" with the property, and he explained the lot of record problem we are facing, and why they had to reject our application, which we didn't know we were doing in the first place! We thought we were going for a variance for the side yard issue only. I really don't understand how subdivision of lots are allowed, if you can't do anything with them. I understand that the properties surrounding ours are owned by the City, and people have simply walked away from them. We have no intention of doing so. We do not plan on any livestock operations on the property (rather small for that), are not concerned with bussing or services from the city. We like the idea that South Transcona is small town country living within city limits.

We plan to build a very attractive single family home, with a garage sometime in the future to live in.

We know of a property on Knowles that was sold, and a holding tank and well put in, in 1999. I was informed by Julia that this by-law came into effect in

1994. There have been many homes built in the north Kildonan area, within city limits with holding tanks and wells.

We feel that we have been mis-represented throughout this entire process - first of all by the previous owners of the property, the realtor, and the city, for even allowing this to happen, with NOTHING written on the title of the property that indicates this is not a property that can be built upon.

We strongly feel that building a new home in this area can only cause the neighborhood to increase in value, as opposed to decrease. Someone will take care of the ditches and the yard, as opposed to the mess of fallen trees that are north of the property now. The holding tank should be a "non-issue", as no water will be saturating the property, or surrounding properties.

Our son, who hopes to build his own house on the property saved for a long time to make the purchase of a lot happen, and is becoming very discouraged. As we are all aware land is hard to come by in the city of Winnipeg, especially for those who want to build their own home.

We sincerely hope that we can meet with the executive policy committee in the near future and resolve this matter.

If you could call me and let me know as soon as possible when we may expect to meet with the committee I'd appreciate it.

Thanks so much,

Sincerely,

Wendy Raap
(for Ian Raap)

Exhibit "3" for EP-1.1(PW) - 111 Symington Road

Winnipeg

City Clerk's Department • Bureau du greffier

REGISTERED MAIL

October 3, 2007

File EP-1.1(PW)

Wendy and Ian Raap
123 McFadden Avenue
Winnipeg, Manitoba
R2C 3E4

Appeal under Plan Winnipeg By-law No. 7630/2000 - 111 Symington Road

This will acknowledge receipt of your communication dated September 20, 2007, appealing the decision of the Zoning and Permits Administrator, Development and Inspections Division, Planning, Property and Development Department dated September 12, 2007, for the premises located at 111 Symington Road.

Please be advised that the appeal will be heard by the Executive Policy Committee at its meeting on Wednesday, November 14, 2007, at 9:00 a.m. in the Council Building, 510 Main Street.

The purpose of the appeal hearing is to allow interested persons to make submissions, ask questions or register objections with respect to this matter.

Information or documents concerning this matter and a description of the procedure to be followed at the hearing are available for inspection in the City Clerk's Department, 510 Main Street or can be accessed on the Internet site: www.winnipeg.ca/CLKDMIS.

JPark

Jo-Ann Park
Manager of the Decision Making Process
Telephone 986-3732
Email jpark@winnipeg.ca

c. Mr. J. Paterson, Acting Director of Planning, Property and Development
Mr. M. Grady, Zoning and Permits Administrator, Planning, Property and Development Department
Ms J. East, Manager of Planning and Land Use, Planning, Property and Development Department
Ms. M. Richard, Senior Planning (Plan Winnipeg), Planning, Property and Development Department

RE: Plan Winnipeg Appeal 111Symington Road – Rejection of Application for Proposed Development of Property without Full Range of Municipal Infrastructure

FOR SUBMISSION TO:	**Executive Policy Committee**
ORIGINAL REPORT SIGNED BY:	**Jim Paterson, A/Director of Planning, Property and Development**
REPORT DATE:	**November 8th, 2007**

RECOMMENDATION:

That the Executive Policy Committee concur with the interpretation of the Public Service that an application to vary the subject property is contrary to Plan Winnipeg and should be rejected in accordance with Section 275(2) of *The City of Winnipeg Charter*.

Report Summary

Key Issues:

An application was received to vary the provisions of the R1-20 zoning district for the establishment of a lot not serviced by any municipal services at 111 Symington Road in the Transcona South neighbourhood of the Transcona Ward. The Winnipeg Public Service rejected this application, as it is contrary to Plan Winnipeg 2020.

Section 3A-02 Promote Compact Urban Form of Plan Winnipeg 2020 states that "*The City shall promote compact urban form in support of sustainability by approving new residential, commercial, and industrial subdivisions only where there is a reasonable relationship between the supply of land and the projected demand and when a full range of municipal infrastructure can be provided in an environmentally- sound, economical and timely manner"*.

The subject land, located in a Neighbourhood Policy Area, does not have a full range of municipal services. A full range of municipal services includes infrastructure for piped water, sanitary sewer, land drainage system and improved rights of ways. Symington Road has no municipal services – there is no piped water, piped sanitary or piped land drainage.

The intent of requiring a full range of municipal services for new developments is recognition that piped water, sanitary sewer, land drainage and paved right of ways

defines an urban standard of development required to meet economic and environmental objectives of the City.

The following considerations reflect potential outcomes of development in Neighbourhood Policy Areas that lack a full range of municipal infrastructure:

- Under serviced homes in an urban area often create pressures later to provide a full standard of municipal infrastructure on an unplanned basis.
- Piecemeal development negatively impacts the economic viability of the installation of infrastructure in the future.
- The incremental and unplanned development of land can preclude broader development objectives, thus delaying the municipal revenues to be realized by complete development at an urban standard.
- By approving even a minor development, a precedent is set for similar development in areas with sub-standard infrastructure.

Under Section 275(2)(a) of the City of Winnipeg Charter, the applicant may appeal a Public Service decision to refuse an application without a hearing. An appeal hearing has been set for November 14th, 2007. The appeal focuses on whether the Public Service correctly interpreted Plan Winnipeg in refusing this application.

Implications of the Recommendation(s):

General Implications

( ) None

(x) For the organization overall and/or for other departments

(x) For the community and/or organizations external to the City

( ) Involves a multi-year contract

Comment(s): The recommendation provides clear and consistent support for Plan Winnipeg policies concerning a full range of municipal infrastructure.

Policy Implications

( ) No

(x) Yes

Comment(s): The recommendation supports Plan Winnipeg policies.

Regulatory Implications

(x) None

( ) Eliminates or reduces regulatory impact

() Proposes regulatory impact

Comment(s): The recommendation rejects an application that is contrary to the City of Winnipeg Charter. Section 235 states the following:

"The passing of a Plan Winnipeg by-law or a secondary plan by-law does not require council, any person, or any department or agency of the government, to undertake a proposal contained in the by-law, but public works, undertakings and development in the city must be consistent with Plan Winnipeg or any secondary plan."

Environmental Implications

(x) No

( ) Yes

Comment(s):

Human Resources Implications

(x) No

( ) Yes

Comment(s):

Financial Implications

(x) Within approved current and/or capital budget

( ) Current and/or capital budget adjustment required

Comment(s):

Report

REASON FOR THE REPORT:

The Executive Policy Committee is responsible for hearing any appeal of a Public Service decision concerning Plan Winnipeg.

HISTORY:

The South Transcona Area is located south of Dugald Road and east of Plessis Road and extends to the City limits. This area developed around the original hamlet where there are suburban densities and limited municipal services (sewer and water) in a restricted geographical location around Webster and McFadden Avenues.

The subject land is 5,575 square feet located in an area that is characterized by large land holdings of +4.0 acres with rural densities. There are two smaller, unserviced urban sized parcels of 10,000 square feet that are nearby with houses constructed in the 1930's. These lots are remnants of an old plan of subdivision, the "East Winnipeg Townsite" Plan of 1909 that created 1,297 lots in South Transcona between McFadden and Symington, Dugald and Nicklin. A few lots were sold many years ago prior to the plans being declared as obsolete by Council in 1977 (B/L 1732/77). The subject land is not a legal lot of record and is part of this obsolete plan.

DISCUSSION:

Plan Winnipeg is the primary planning policy document that guides all land use, development and planning matters within the City of Winnipeg.

All versions of Plan Winnipeg (1986, 1993 and 2001) have included policies restricting the subdivision of land without a full range of municipal infrastructure.

Each Plan Winnipeg recognized that piped water, sanitary sewer, urban standard land drainage system along with improved right of ways, facilitates orderly urban development and from an overall perspective, contributes to environmental quality and safety of an area:

Plan Winnipeg (1986) – 13(1) Suburban Residential Neighbourhoods – Efficient Utilization of Regional Infrastructure
The City shall not, by subdivision by-law, approve the conversion of land in Suburban Residential Neighbourhoods to large lot development with any one or more independent waste water or water supply system or ditch drainage.

Plan Winnipeg 2010 – 5A-17 Restrict Conversion of Land
The City shall not approve the subdivision or conversion of land within areas designated as Neighbourhoods on Plate A with any independent system of water supply, sewage disposal or drainage.

Plan Winnipeg 2020 - 3A-02 Promote Compact Urban Form
The city shall promote compact urban form in support of sustainability by approving new residential, commercial and industrial subdivisions only where there is a reasonable relationship between the supply of land and the projected demand and when a full range of municipal infrastructure can be provided in an environmentally-sound, economical and timely manner.

Policy Implications -
The subject property does not have access to a full range of municipal infrastructure.

The establishment of a lot without a full range of municipal infrastructure may seem harmless from a site-specific perspective but as development increases in South Transcona there will be increased pressure to approve residential lots with substandard levels of municipal services. The incremental impact on the area will ultimately have to be addressed by the City.

The possible implications of approving sub-standard servicing contrary to Plan Winnipeg are:

- Incremental intensification of development that is not serviced by a full range of municipal infrastructure.
- Increased difficulty in establishing a full range of municipal infrastructure.
- Inconsistent standards in development within the urban environment.
- Impacts to the logical and orderly extension and use of regional piped water, sanitary sewer, land drainage and transportation systems.
- Erosion of the credibility of City development policy.

Financial Impact Statement Date: November 8, 2007

Project Name:

Plan Winnipeg Appeal 111 Symington Road – Rejection of Application for Proposed Subdivision of Property Without a Full Range of Municipal Infrastructure

COMMENTS:

The recommendation contained in this report is that the Executive Policy Committee concur with the interpretation of the Public Service that an application to subdivide the subject property is contrary to Plan Winnipeg and should be rejected in accordance with Section 275(2) of The City of Winnipeg Charter.

There are no financial implications associated with this recommendation.

"Original Signed By"
Mike McGinn, CA
Manager of Finance

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:
Water and Waste
Public Works

External Consultation With:

N/A

THIS REPORT SUBMITTED BY:

Department Planning, Property and Development

Division Planning and Land Use

Prepared by: Michelle Richard, Senior Planner, Plan Winnipeg