**Agenda – Executive Policy Committee – November 9, 2011**

## APPEAL HEARINGS

**Item No. 1 OurWinnipeg Plan By-law No. 67/2010 – 121 Donridge Drive (St. Vital Ward) File PW 1/2010**

On September 23, 2011, Ms Gina Trinidad appealed the decision of the Riel District Planner, Planning, Property and Development Department, dated September 22, 2011, regarding provisions of OurWinnipeg Plan By-law No. 67/2010 (Direction 01-1(3)) for the premises located at 121 Donridge Drive.

The decision stated:

"With reference to your application to develop a secondary suite at the above referenced location, please be advised that your application is contrary to Direction 01-1(3) of OurWinnipeg which is the City of Winnipeg's Development Plan. Direction 01-1(3) identifies that the intensification of land uses through the application process should only be enabled when there are a full range of municipal services provided. A full range of municipal services is defined as 'piped water, piped wastewater, piped land drainage, and an urban standard roadway.'

It is noted that the subject property does not front onto a street that contains piped water, piped wastewater, and piped land drainage services. Consequently, your application to develop a secondary suite at 121 Donridge Drive is hereby refused without a hearing pursuant to Section 275(2)(a) of The City of Winnipeg Charter."

WINNIPEG PUBLIC SERVICE RECOMMENDATION:

That the Executive Policy Committee concur with the interpretation of the Public Service that an application to intensify the land use through the development of an attached secondary suite in an area that does not have a full range of municipal services is contrary to OurWinnipeg By-Law 67/2010 and can not be approved under Section 275(2) of the City of Winnipeg Charter.

**Agenda – Executive Policy Committee – November 9, 2011**

Appellant: Gina Trinidad

Premises Affected: 121 Donridge Drive

Nature of Appeal: On September 23, 2011, Gina Trinidad appealed the decision of the Riel District Planner, Planning, Property and Development Department, dated September 22, 2011, regarding provisions of OurWinnipeg Plan By-law No. 67/2010 (Direction 01-1(3)) for the premises located at 121 Donridge Drive.

The decision stated:

"With reference to your application to develop a secondary suite at the above referenced location, please be advised that your application is contrary to Direction 01-1(3) of OurWinnipeg which is the City of Winnipeg's Development Plan. Direction 01-1(3) identifies that the intensification of land uses through the application process should only be enabled when there are a full range of municipal services provided. A full range of municipal services is defined as 'piped water, piped wastewater, piped land drainage, and an urban standard roadway.'

It is noted that the subject property does not front onto a street that contains piped water, piped wastewater, and piped land drainage services. Consequently, your application to develop a secondary suite at 121 Donridge Drive is hereby refused without a hearing pursuant to Section 275(2)(a) of The City of Winnipeg Charter."

Exhibits Filed:

1. Decision dated September 22, 2011, issued by the Riel District Planner, Planning, Property and Development Department
2. Notice of Appeal filed by Gina Trinidad received September 23, 2011
3. Notification of Public Hearing dated October 6, 2011
4. Report from the Winnipeg Public Service dated October 31, 2011

REPRESENTATIONS:

In Support of Appeal:

In Opposition to Appeal:

For Information on 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 Riel District Planner, Planning, Property and development Department, be confirmed / cancelled.

Moved by Councillor
That following supporting reason(s) be provided, namely:

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

Exhibit "1" – Appeal – OurWinnipeg Plan By-law No. 67/2010 – 121 Donridge Drive

Winnipeg

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

*Planning and Land Use Division • Division de l'urbanisme et de l'usage des sols*

In reply please refer to / Référence à rappeler :

R. Kostiuk, Riel District Planner
Phone: (204) 986-7367
Fax: (204) 986-7524

September 22, 2011

Ms. Gina Trinidad

**RE: 121 DONRIDGE DRIVE – DCU 11-156253/C SECONDARY SUITE APPLICATION**

Dear Ms. Trinidad:

With reference to your application to develop a secondary suite at the above referenced location, please be advised that your application is contrary to Direction 01-1(3) of *OurWinnipeg*, which is the City of Winnipeg's Development Plan. Direction 01-1(3) identifies that the intensification of land uses through the application process should only be enabled when there are a full range of municipal services provided. A full range of municipal services is defined as "piped water, piped wastewater, piped land drainage, and an urban standard roadway."

It is noted that the subject property does not front onto a street that contains piped water, piped wastewater, and piped land drainage services. Consequently, your application to develop a secondary suite at 121 Donridge Drive 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 by mail or e-mail to the Clerk of the Executive Policy Committee at the following address:

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

Attention: Jo-Ann Park
Clerk, Executive Policy Committee

Yours truly,

Robert Kostiuk
Riel District Planner

Hard Copy to Follow in the Mail

Exhibit "2" – Appeal – OurWinnipeg Plan By-law No. 67/2010 – 121 Donridge Drive

**From:** Gina Trinidad
**Sent:** Friday, September 23, 2011 2:45 PM
**To:** Kostiuk, Robert
**Cc:** Pittet, Marc; Gameiro, Carlos; Wintrup, John
**Subject:** RE: DCU 11-156253/C - 121 Donridge Drive

I've received your letter. Thank you.

Marc & Carlos:
This is to advise that I am formally appealing the decision to refuse my application for a secondary suite and would like the opportunity to go before the Executive Policy Committee to review my application further. Please advise as to the details of this meeting.

Hope this is sufficient. I look forward to hearing from you soon.

Gina Trinidad

Exhibit "3" – Appeal – OurWinnipeg Plan By-law No. 67/2010 – 121 Donridge Drive

Winnipeg

City Clerk's Department • Bureau du greffier

REGISTERED MAIL RW 464 740 725 CA

October 6, 2011

Ms Gina Trinidad

**Appeal – OurWinnipeg Plan – 121 Donridge Drive**

This will acknowledge receipt of your communication dated September 23, 2011, appealing the Order from the Riel District Planner, Planning Property and Development Department, dated September 22, 2011, regarding provisions of the OurWinnipeg Plan By-law No. 67/2010 (Direction 01-1(3) for the premises located at 121 Donridge Drive.

Please be advised that the appeal will be heard by the Executive Policy Committee at its meeting on Wednesday, November 9, 2011, 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.

Jo-Ann Park
Manager of the Decision-Making Process

c. Mr. P. Sheegl, Chief Administrative Officer
Mr. D. Joshi, Chief Operating Officer
Mr. B. Thorgrimson, Acting Director of Planning, Property and Development
Ms P. Regan, Manager of Planning and Land Use, Planning, Property and Development Department
Mr. R. Kostiuk, Riel District Planner, Planning, Property and Development Department

# ADMINISTRATIVE REPORT

**Title:** 121 Donridge Drive *OurWinnipeg* Appeal DCU 11-156253/C

**Critical Path:** Executive Policy Committee

## AUTHORIZATION

| Author | Department Head | CFO | CAO |
|---|---|---|---|
| P. Regan | B. Thorgrimson | N/A | D. Joshi, COO |

## RECOMMENDATIONS

- That the Executive Policy Committee concur with the interpretation of the Public Service that an application to intensify the land use through the development of an attached secondary suite in an area that does not have a full range of municipal services is contrary to *OurWinnipeg* By-Law 67/2010 and can not be approved under Section 275(2) of the *City of Winnipeg Charter.*

## REASON FOR THE REPORT

- The applicant is proposing to develop a secondary suite at 121 Donridge Drive under file DCU 11-156253/C. The secondary suite would be attached and accessory to the principal use, which would be the existing home on the site.
- Under Zoning By-Law 200/2006, secondary suites require a conditional use application within all residential zones except the "RMH" Residential Mobile Home Park zone where secondary suites are not permitted.
- The subject site, 121 Donridge Drive, is 2 acres in area and zoned "RR2" Rural Residential 2.
- The site is located in the Rural Agricultural Area under the Complete Communities Direction Strategy (By-Law 68/2010) and within the St. Vital Perimeter South Secondary Plan (By-Law 1735/77) area.
- Within Rural Agricultural Areas under the Complete Communities Direction Strategy, the minimum site area for land may be smaller than 40 acres where an applicable statutory plan allows for such development.
- The St. Vital Perimeter South Secondary Plan allows for limited rural residential development in the "Medium Density Rural Residential" and in the "Low Density Rural Residential" areas. Sites within the Medium Density Rural Residential areas must be at least 2 acres in area and 180 feet wide for single-family developments. Sites within the Low Density Rural Residential areas must be at least 5 acres in area and 300 feet wide for single-family developments. The subject property is located within the Medium Density Rural Residential area.

- There are no policies for secondary suites in the St. Vital Perimeter South Secondary Plan as secondary suites were not considered at the time of the adoption of this Plan.
- Land within the St. Vital Perimeter South Secondary Plan area does not have access to a full range of municipal services, which under *OurWinnipeg* is defined as "piped water, piped wastewater, piped land drainage, and an urban standard roadway."
- *OurWinnipeg* Direction 01-1a(3) identifies that the intensification of land uses through the application process should only be enabled when there is a full range of municipal services provided:
    - *Enable the intensification of land-uses through the development application process only when a full range of municipal services is provided*.
- Section 275(2) of the *City of Winnipeg Charter* permits the Public Service to refuse an application that does not conform with *OurWinnipeg*.
- This application – file DCU 11-156253/C – was refused by the Public Service. The Public Service refused this application because the Service believes that the application is not consistent with *OurWinnipeg* as the application results in an intensification of a land use in an area without access to a full range of municipal services.
- A decision by the Public Service to refuse an application that does not conform with *OurWinnipeg* may be appealed. The appeal is to be heard by the Executive Policy Committee (EPC).
- The attached report is being submitted for the Committee's consideration of the appeal.

## IMPLICATIONS OF THE RECOMMENDATIONS

- The recommendation provides clear and consistent support for *OurWinnipeg* policies concerning the intensification of land uses in areas that do not have a full range of municipal services.
- The applicant will not have the ability to construct an attached secondary suite addition to the existing home at 121 Donridge Drive.

## HISTORY

N/A

## FINANCIAL IMPACT

**Financial Impact Statement** **Date:** October 20, 2011

**Project Name:**

**121 Donridge Drive OurWinnipeg Appeal DCU 11-156253/C**

**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 intensify the land use through the development of an attached secondary suite in an area that does not have a full range of municipal services is contrary to OurWinnipeg By-Law 67/2010 and can not be approved under 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

## CONSULTATION

In preparing this report there was consultation with: N/A

## SUBMITTED BY

| | |
|---|---|
| Department | Planning, Property and Development |
| Division | Planning and Land Use |
| Prepared by: | Robert Kostiuk |
| Date: | October 31, 2011 |
| File No. | DCU 11-156253/C |

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**List of Attachments**

1. Appendix A – Planning Discussion

**APPENDIX 'A'**

**Key Issues:**

- *OurWinnipeg* (By-Law 67/2010) is the development plan for the City of Winnipeg.
- *OurWinnipeg* together with the Complete Communities Direction Strategy Secondary Plan (By-Law 68/2010) guides all land use, development, and planning matters in the City of Winnipeg.
- Direction 01-1a(3) of *OurWinnipeg* identifies that the intensification of land uses through the application process should only be enabled when there is a full range of municipal services provided.
- Within *OurWinnipeg,* a full range of municipal services is defined as "piped water, piped wastewater, piped land drainage, and an urban standard roadway"*.*
- The subject property, 121 Donridge Drive, is not serviced by a full range of municipal services as there are no piped water, wastewater, or land drainage services connecting to the site.
- The subject property is located in the St. Vital Perimeter South Secondary Plan area (By-Law 1735/77), which allows for limited rural residential development without a full range of municipal services. However, there are no policies for secondary suites in the St. Vital Perimeter South Secondary Plan as secondary suites were not considered at the time of the adoption of this Plan.
- The Public Service refused the conditional use application DCU 11-156253/C for the creation of a secondary suite addition to the single-family dwelling on the subject property because it results in an intensification of a land use and is therefore contrary to Direction 01-1a(3) of *OurWinnipeg.*
- The applicant is now appealing the decision by the Public Service to refuse the application.

**Nature of Application:**

- The applicant is proposing to develop a secondary suite at 121 Donridge Drive under file DCU 11-156253/C. The secondary suite would be attached and accessory to the principal use, which would be the existing home on the site.
- Under Zoning By-Law 200/2006, secondary suites require a conditional use application within all residential zones except the "RMH" Residential Mobile Home Park zone where secondary suites are not permitted.
- The subject site, 121 Donridge Drive, is 2 acres in area and zoned "RR2" Rural Residential 2.
- The site is located in the Rural Agricultural Area under the Complete Communities Direction Strategy (By-Law 68/2010) and within the St. Vital Perimeter South Secondary Plan (By-Law 1735/77) area.
- Within Rural Agricultural Areas under the Complete Communities Direction Strategy, the minimum site area for land may be smaller than 40 acres where an applicable statutory plan allows for such development.
- The St. Vital Perimeter South Secondary Plan allows for limited rural residential development in the "Medium Density Rural Residential" and in the "Low Density Rural Residential" areas. Sites within the Medium Density Rural Residential areas must be at least 2 acres in area and 180 feet wide for single-family developments. Sites within the Low Density Rural Residential areas must

be at least 5 acres in area and 300 feet wide for single-family developments. The subject property is located within the Medium Density Rural Residential area.

- Allowing for limited rural residential development in the "Medium Density Rural Residential" and in the "Low Density Rural Residential" areas is supported by Key Objectives in the St. Vital Perimeter South Secondary Plan, which include:

    1. To establish a settlement policy which is compatible with the natural environment and which safeguards the general welfare of the community by ensuring the location and density of development respects the natural limits imposed by the local environment.

    2. To accommodate some people who wish to live in a rural setting by designating areas appropriate for rural-residential and associated land uses.

    5. To balance the development of this Limited Urban Expansion Area against the measurable costs of this development form in terms of service, utilities, and public facilities, taxes and environmental quality, thereby ensuring the greatest benefits possible are received by the community in the accommodation of the wishes of some people for limited urban development.

- There are no policies for secondary suites in the St. Vital Perimeter South Secondary Plan as secondary suites were not considered at the time of the adoption of this Plan.
- Land within the St. Vital Perimeter South Secondary Plan area does not have access to a full range of municipal services, which under *OurWinnipeg* is defined as "piped water, piped wastewater, piped land drainage, and an urban standard roadway."
- *OurWinnipeg* Direction 01-1a(3) identifies that the intensification of land uses through the application process should only be enabled when there is a full range of municipal services provided:
    - *Enable the intensification of land-uses through the development application process only when a full range of municipal services is provided*.
- Section 275(2) of the *City of Winnipeg Charter* permits the Public Service to refuse an application that does not conform with *OurWinnipeg*.
- This application – file DCU 11-156253/C – was refused by the Public Service. The Public Service refused this application because the Service believes that the application is not consistent with *OurWinnipeg* as the application results in an intensification of a land use in an area without access to a full range of municipal services.
- A decision by the Public Service to refuse an application that does not conform with *OurWinnipeg* may be appealed. The appeal is to be heard by the Executive Policy Committee (EPC).
- The applicant has since filed an appeal to the Clerk of the Executive Policy Committee requesting that the Committee allow the secondary suite to proceed as a conditional use application, which would be heard by the Board of Adjustment.

**Policy Implications:**

- Allowing an application for the creation of the secondary suite in an area that lacks a full range of municipal services would set a precedent for future similar applications.
- Potential issues associated with allowing such an application to proceed include:

- Increased density in areas lacking municipal infrastructure to support an increase in population, which can potentially pose greater sustainability and safety concerns.
- Greater demand for services that could range from City services, which could be difficult to provide in a feasible manner in rural situations, to commercial services, which in most cases would not be supported in rural areas under *OurWinnipeg* or most existing secondary plans that cover rural areas.

- The City of Winnipeg Public Service recognizes that there are numerous benefits to permitting secondary suites, including:
  - Mortgage helper – eases the rising cost of housing to the homeowner by supplementing the mortgage with rental income.
  - Allows aging in place – Allows owners to stay in their homes longer on a fixed income.
  - Allows families to remain together – the suite can be utilized by a family member such as an elderly relative.
  - Affordable Housing – secondary suites help expand the supply of lower cost housing available in a community.
  - Proximity to existing services – As secondary suites are generally introduced in established neighbourhoods; many amenities already exist, such as schools, shopping.
  - Ground Oriented Housing – provides ease of entry and often the opportunity for yard access.
  - Low-impact densification – Secondary suites increase the rental stock available in a community, as well as the number of dwelling units without significantly altering the built form.
  - Abundance of more lower cost rental housing without reliance on government subsidy – since the housing is provided by the homeowner, no government subsidies are required (however, secondary suite programs can encourage their introduction through subsidy).
  - Costs of municipal infrastructure – Secondary suites make the use of existing infrastructure in serviced areas more efficient and therefore contribute to infrastructure retention.
  - Complete Communities - Secondary suites provide a diversity of housing types which supports the inclusion of a wide range of income groups.
  - Design and Character - Secondary suites do not change the design/ character of existing neighbourhoods. Properties with secondary suites mimic the existing built form.
  - Addresses the historical decline in household size – Secondary suites add more people to the community without increasing the land supply. This strengthens the ability for existing neighbourhood services and amenities to survive, such as schools, libraries, and transit.
- There have been 28 secondary suite applications since the incorporation of secondary suites as a conditional use under Zoning By-Law 200/2006 in March 2008 to the present date (October 17, 2011).
- The City of Winnipeg Public Service has recommended supporting every one of these applications often citing one or more of the reasons listed above as rationale for support of the application. However, every one of these secondary suite applications was located in an area with a full range of municipal services.

**Conclusion:**

- *OurWinnipeg* clearly requires a full range of municipal services to be provided prior to enabling the intensification of a land use. An application to develop a secondary suite is an intensification of a land use and can not be supported under *OurWinnipeg* in an area that does not have a full range of municipal services.
- The St. Vital Perimeter South Secondary Plan allows for limited rural residential development. However, it is not clear that secondary suites should be permitted in the Plan area because secondary suites were not considered when the Plan was adopted.

**Figure 1: Aerial Photograph of Subject Property and Surrounding Area (flown 2009)**



**Figure 2: Zoning of Subject Property and Surrounding Area**

