



## Committee of the Whole Report For the Meeting of July 5, 2018

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**To:** Committee of the Whole **Date:** June 21, 2018  
**From:** Jonathan Tinney, Director, Sustainable Planning and Community Development  
**Subject:** Development Permit Application (DDP No. 00174) for 1351 Vining Street

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### RECOMMENDATION

That Council authorize the issuance of a Development Permit Application for 1351 Vining Street (DDP No. 00174), subject to the applicant adding obscured glass to the bathroom window, removing the living area window on the east elevation and the French doors on the west elevation (small, non-opening transom windows may replace these), to the satisfaction of the Director of Sustainable Planning and Community Development, in accordance with:

1. Plans date stamped March 19, 2018, as amended.
2. Development meeting all *Zoning Regulation Bylaw* requirements.
3. The Development Permit lapsing two years from the date of this resolution.

### LEGISLATIVE AUTHORITY

In accordance with Section 489 of the *Local Government Act*, Council may issue a Development Permit in accordance with the applicable guidelines specified in the *Official Community Plan*. A Development Permit may vary or supplement the *Zoning Regulation Bylaw* but may not vary the use or density of the land from that specified in the Bylaw.

Pursuant to Section 491 of the *Local Government Act*, where the purpose of the designation is the establishment of objectives for the form and character of intensive residential development, a Development Permit may include requirements respecting the character of the development including landscaping; and the siting, form, exterior design and finish of buildings and other structures.

### EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations for a Development Permit Application for the property located at 1351 Vining Street. The proposal is to convert an existing studio to a garden suite. The existing studio does not meet the *Garden Suite Policy and Guidelines*, and changes to the west and east elevation windows are required for consistency with the Policy.

The following points were considered in assessing this application:

- The proposal is generally consistent with the policies and design specifications of the *Garden Suite Policy and Guidelines*, 2011; however, an existing living area window and a set of French doors facing neighbouring properties pose potential privacy concerns and are inconsistent with the design guidelines.
- The existing building was built with permits as an art studio in 1996. It has been used illegally as a dwelling unit in the past and has been the focus of Bylaw Enforcement investigations resulting from neighbourhood concerns.
- Other aspects of the design and siting of the building are consistent with the *Garden Suite Policy and Guidelines* and there are no variances.

## **BACKGROUND**

### **Description of Proposal**

The proposal is for a garden suite in the rear yard of the subject property. Specific details include:

- the garden suite would be in an existing studio built in 1996
- the exterior material is horizontal wood siding, and has pitched roofline
- there are no exterior changes proposed to the existing building, except for adding foundation curtain panel
- there would be some landscaping changes made to accommodate a semi-private outdoor space.

### **Sustainability Features**

The applicant has not identified any sustainability features associated with this proposal.

### **Active Transportation Impacts**

The applicant has not identified any active transportation impacts associated with this application.

### **Public Realm Improvements**

No public realm improvements are proposed in association with this Development Permit Application.

### **Accessibility Impact Statement**

The British Columbia Building Code regulates accessibility as it pertains to buildings.

### **Existing Site Development and Development Potential**

The site is presently a single-family dwelling with an accessory building, which was built with the declared use as a studio/workshop. The existing single-family dwelling was built in 1911. The existing single-family dwelling has heritage value and Staff encouraged the applicant to consider making an application for Heritage Designation, or adding the building to the Heritage Register. The Applicant has declined to pursue this at this time.

Under the current R1-B Zone, Single Family Dwelling District, the property could be developed as a single-family dwelling with a secondary suite or garden suite.

## Data Table

The following data table compares the proposal with the R1-B Zone, Single Family Dwelling District, and Schedule M – Garden Suites. An asterisk is used to identify where the proposal is less stringent than the Zone, and represents a legal non-conforming condition. There are no variances for the garden suite.

Zoning Criteria	Proposal	Zone Standard
Site area (m <sup>2</sup> ) - minimum	<b>423.00*</b>	460.00
Lot width (m) - minimum	9.89*	15
Parking - minimum	<b>0*</b>	1
Site coverage (%) - maximum	23.67	40.00
<b>Garden Suite</b>	<b>Proposal</b>	<b>Zone Standard</b>
Combined floor area (m <sup>2</sup> ) - maximum	23.69	37.00
Height (m) - maximum	3.33	3.50
Storeys	1	1
Rear yard site coverage (%) - maximum	11.93	25.00
<b>Setbacks (m) – minimum:</b>		
Separation space from main building	12.00	2.40
Side (west)	3.00	0.60
Side (east)	2.00	0.60
Rear (south)	4.20	0.60

## Relevant History

The existing accessory building was built in 1996 with a Building Permit (BP #0016544). Later that year, additional permits were issued to add plumbing (full bathroom) with the clear limitation of the building being used as a workshop and studio space (approved Building Permit and Plumbing Permit Plans attached). The final construction does not match the approved building permit plans. Many of the windows were built to different sizes than shown on the plans and there are discrepancies amongst the various plans regarding the number and placement of doors and windows on the west elevation.

In response to neighbourhood complaints there has been ongoing Bylaw Enforcement action on this property since 2005 related to the use of the accessory building as a residential unit. A Bylaw Contravention Notice was placed on title in 2011 and it appears there was further occupation of the studio after that time. The most recent complaint occurred in July 2017 related to the studio being used as a dwelling unit. It was around this time that the applicant enquired about the studio being converted to a garden suite. Correspondence with Bylaw Enforcement in October 2017 indicates that the studio had been vacated and appliances removed. No new information suggests this is an ongoing issue.

## Community Consultation

In accordance with the City's *Land Use Procedures Bylaw*, Development Permits do not require public consultation, notice or sign posting; however, as per staff's normal practice, the applicant was encouraged to communicate with their neighbours.

## ANALYSIS

### Development Permit Area and Design Guidelines

The OCP identifies this property within Development Permit Area 15E: Intensive Residential - Garden Suites.

The *Garden Suite Policy and Guidelines* strongly discourage windows being oriented towards neighbouring properties to maintain levels of privacy for adjacent neighbours; alternatively, windows should be oriented towards the interior of the site. The proposal is for a conversion of a studio to a garden suite; and even though it is existing, the building does not meet the design guidelines with regards to privacy. Additionally, given the past Bylaw complaints regarding this property, it would appear there are issues related to the privacy and enjoyment of neighbouring properties due to habitation of the building. Conversion of accessory studios may be supported if they meet the *Garden Suite Policy and Guidelines*, particularly around privacy and impact to neighbours.

The French doors that are facing the west neighbour are three metres from the lot line. There is a patio area outside of this door and a six foot fence along the lot line. The two doors have large windows that are located off the living area of the studio. The living area is considered habitable space; and due to the activity in and around this area of the building, may pose privacy and increased noise concerns, thus, potentially affecting the neighbouring properties. There is an existing accessory building in the rear yard of the neighbour to the west; this may also pose potential privacy concerns should this neighbour develop a garden suite in the future.

The living area window facing the east is two metres from the lot line. This window is also off a habitable living space. There is a six foot high fence along the east lot line which has five feet of vertical wood boards and 1 foot of lattice at the top. The neighbour also has a tree which helps to partially block this window; however, if the tree is ever removed, or the neighbour decides to develop a garden suite in the future, it may pose potential privacy concerns.

The kitchen and bathroom are both considered to be non-habitable rooms in terms of the *Zoning Regulation Bylaw* and these windows tend to pose fewer concerns related to privacy and overlook. The kitchen window is an atrium style window which is relatively small and would likely be partially obscured by plants and other stored items. The bathroom window is small in size; however, it should have obscured glass added for privacy.

The applicant has suggested the preferred option is to add landscaping along the east and west lot lines, and add obscured glass to the French door windows and living area window. Staff recommend that in this instance, the garden suite be reconfigured (remove east window and west French doors) to meet the design guidelines. This will help achieve the aim of the Guidelines which is to minimize the potential for conflict while facilitating a positive neighbourhood "fit" over the short and long term. Should Council wish to proceed with approving the application in accordance with the preferred option of the applicant, Option 1 in the Alternate Motions would achieve this.

The proposal generally meets all other aspects of the Policy. The material finish is a horizontal siding, which is compatible with the existing character of the house. There is a small outdoor space and patio area proposed for the garden suite. The proposed garden suite would not be directly visible from the street; however, there is a gate and path that would indicate the garden suite location at the rear of the long, narrow lot.

## **Local Area Plans**

### **Tree Preservation Bylaw and Urban Forest Master Plan**

There is a significant bylaw protected Lombardy Poplar tree, as well as, a bylaw protected Western Red Cedar tree in the back yard within the vicinity of the garden suite. If any exterior alterations such as foundation work, or service upgrades are proposed, the Parks Department will need to review the application.

## **Regulatory Considerations**

The standard Right-of-Way for a local street is 18.0m; however, future transportation-related needs on the corridor can be met in a Right-of-Way width of 15.0m. To help achieve this minimum on the portion of Vining Street, a Statutory Right-of-Way of 1.4m was requested; however, this request was declined by the applicant.

## **CONCLUSIONS**

This proposal to convert an existing studio to a garden suite is generally consistent with the *Official Community Plan* objectives and guidelines for sensitive infill; however, the design is inconsistent with the *Garden Suite Policy and Guidelines* in relation to placement of windows and doors on side elevations. The proposed living area window on the east elevation, and the French doors on the west elevation, present potential privacy concerns and Staff recommend that they be removed. However, the addition of small transom windows, particularly in place of the French doors, to allow light into the living area may be supportable. The applicant's ideal preference would be to add obscured glass to these windows, and potentially additional landscaping. Staff recommend that Council consider the motion recommendation; however, alternative motions have been provided.

## **ALTERNATE MOTIONS**

### Option 1 – (Approve with revision to add obscured glass and landscaping)

That Council authorize the issuance of a Development Permit Application for 1351 Vining Street (DDP No. 00174), subject to the applicant adding obscured glass to the bathroom window, French doors and living area window; as well as, landscaping along the west and east lot lines, to the satisfaction of the Director of Sustainable Planning and Community Development, in accordance with:

1. Plans date stamped March 19, 2018, as amended.
2. Development meeting all *Zoning Regulation Bylaw* requirements.
3. The Development Permit lapsing two years from the date of this resolution.

Option 2 (Decline)

That Council decline Delegated Development Permit Application No. 00174 for the property located at 1351 Vining Street.

Respectfully submitted,

*Chelsea Medd*

Chelsea Medd  
Planner  
Sustainable Planning and Community  
Development

*A. Meyer*

*[Signature]*

Jonathan Tinney, Director  
Sustainable Planning and Community  
Development Department

Report accepted and recommended by the City Manager:

*Joseph Denby*

Date:

*June 29, 2018*

**List of Attachments:**

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans date stamped March 19, 2018
- Attachment D: Letter from applicant to Mayor and Council dated May 28, 2018
- Attachment E: Building Permit plans dated November 7, 1996
- Attachment F: Existing Site Photos from May 2018