Agenda - Executive Policy Committee - June 18, 2003

REPORTS

Item No. 7 Proposed Rezoning of Property on McConnell Road
File No. EP-1.2

ADMINISTRATIVE RECOMMENDATION:

That the subject request to subdivide and rezone properties fronting the McConnell Road right-of-way must be rejected as contrary to Plan Winnipeg under Section 3(3) of the Development Procedures By-Law 5893/92.

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE DECISION:

On February 12, 2003, the Executive Policy Committee referred the matter to the Chief Administrative Officer for review, in consultation with the Director of Planning, Property and Development, the City Solicitor/Manager of Legal Services and Secretary, Intergovernmental Affairs, and report back with a recommendation and the process to be followed under The City of Winnipeg Charter.

COMMUNICATION:

Frank Grande, The McConnell Road Group, submitted a communication outlining their proposal with respect to rezoning of currently agricultural zoned 5-acre lots to 5-acre residential lots on McConnell Road.

Re: **McConnell Road Subdivision**

For submission to: **Executive Policy Committee**

Original report signed by: **Director of Planning, Property and Development**

Report date: May 13, 2003

Recommendation(s):

- **The subject request to subdivide and rezone properties fronting the McConnell Road right-of-way must be rejected as contrary to *Plan Winnipeg* under Section 3(3) of the Development Procedures By-Law 5893/92.**

REPORT SUMMARY

Key Issues:

- An amendment to *Plan Winnipeg* and the *Wilkes South Secondary Plan* would be required to enable the rezoning and subdivision of lands to permit unserviced, five-acre, rural-residential development fronting McConnell Road in the Wilkes South Neighbourhood (Rural Policy Area).

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 of Winnipeg**
	Involves a multi-year contract

Comment(s):

- The *Wilkes South Secondary Plan* recognized existing rural residential areas in Wilkes south and accommodated limited infill development. McConnell Road was excluded in that the potential 75-5 acre lots were not considered to be consistent with *Plan Winnipeg* policies.
- McConnell Road is an unimproved right-of-way and the plan which established the lots along McDonnell has been declared obsolete by the City.

Policy implications:

	No
X	**Yes**

Comment(s):

- The intent of *Plan Winnipeg* policies relating to land uses in Rural Areas is to restrict development of unserviced residential areas on the periphery of

the urban area.

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):

- There are no financial implications associated with this report.

REASON FOR THE REPORT:

On February 12, 2003, Executive Policy Committee (EPC) received a letter from Mr. Frank Grande, Chairman of the McConnell Road Group, asking to be allowed to develop McConnell Road in the Wilkes South Neighbourhood in Charleswood with 5-acre, rural residential lots. EPC asked the administration for a recommendation on, and process for, the necessary rezoning and subdivision.

HISTORY:

Mr. Grande's group represents owners of seventy-five (75) individually titled, five (5) acre parcels of land fronting the east and west sides of McConnell Road in the Wilkes South Neighbourhood. McConnell Road is an unimproved right-of-way, about 2 miles long, running from Wilkes Avenue on the north to Finkelstein Road on the south (see Figure 1). The 75 lots comprised an obsolete plan of subdivision, spanning some 390 acres, which the Winnipeg Land Titles Office (WLTO) failed to cancel as requested by the City of Winnipeg. The Province sold the land to a local developer, who was able to obtain titles from the Winnipeg Land Titles Office (WLTO) without the consent of the City of Winnipeg by way of subdivision approval. The developer sold the lots, not as building lots, but as "investment lots".

EPC previously considered a similar request from the McConnell Road Group at its meeting of December 6, 2000, wherein EPC concurred with the recommendation of the Planning, Property

and Development Department that the proposed subdivision was contrary to *Plan Winnipeg*. The following discussion essentially reiterates the November 9, 2000 report to EPC.

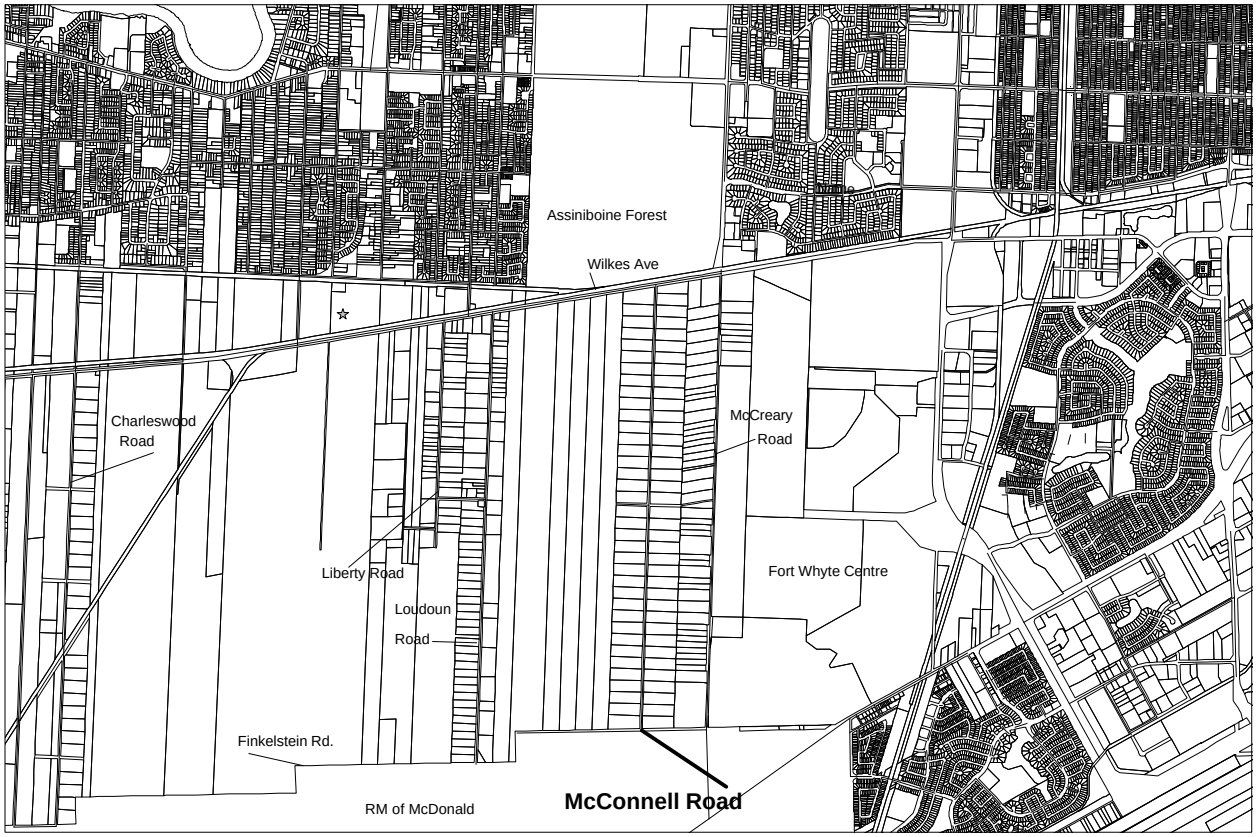

Figure 1: Location Map

DISCUSSION:

The McConnell Road subdivision was registered in the early part of the last century under Plan of Subdivision #1563. The subdivision created 75 lots fronting both sides of a right-of-way named McConnell Road. The lands remained under one title and came to be owned by the Province of Manitoba. In 1974 the plan of subdivision was declared obsolete under By-law 833/74, as it did not comply with the *Metropolitan Development Plan* which designated this area partly "Working Area Reserve", and partly "Area of no Urban Expansion". Under such circumstances, it is customary for the WLTO to "cancel" the plan. However this was not done for reasons unknown and, in the early 1980's, the Province sold the land to a private developer who was able to obtain individual titles for 75 lots. These titled properties were in turn sold to individuals as "investment lots".

Over the years the owners of these lots have, individually and collectively, lobbied the City for permission to build houses. Their efforts were encouraged with Council passage of the *Wilkes South Secondary Plan* (By-law 6391/94), a *Plan Winnipeg* by-law permitting limited rural residential development along existing, improved rights-of-way in the Wilkes South Neighbourhood. This secondary plan was prepared under Policy 3B-08 of *Plan Winnipeg*, which

establishes the criteria for allowing infill development within existing rural residential areas provided a Secondary Plan is in place. *The Wilkes South Secondary Plan* area encompasses the following "existing improved" roads: Charleswood Road south of Wilkes, Liberty and Loudoun Streets, and McCreary Road. These roads were all developed with houses to some extent when the secondary plan was initiated.

The intent of the *Wilkes South Secondary Plan* was to recognize existing rural residential neighbourhoods in Wilkes South and to accommodate limited infill development. The plan was never intended to allow for the creation of new rural residential neighbourhoods. McConnell Road is an unimproved right-of-way with no frontage development. The right-of-way contains a dirt track that was built from material excavated during construction of the McConnell Drain in the early 1970's. McConnell Road was intentionally excluded from the *Wilkes South Secondary Plan* and remains a Rural Policy Area with a 40-acre minimum lot size. The rationale for excluding the McConnell Road properties from rural residential development under the *Wilkes South Secondary Plan* remains valid. *Plan Winnipeg* policy regarding unserviced residential areas has not changed since the secondary plan by-law was passed.

In order for development to occur along the McConnell Road right-of-way the *Wilkes South Secondary Plan* would have to be amended. However, it must first be determined if such an amendment would conform to the intent of *Plan Winnipeg* with respect to unserviced residential areas as per the following policy (p.34):

3B-08 Regulate Land Uses in Rural Areas

The City shall regulate land uses within locations designated as Rural on Policy Plate A by:

i) designating agriculture and related support functions as the principal use in rural areas through the requirement of a minimum site area of 16 ha (40 acres) or such other minimum size as would be allowed under an applicable secondary plan and subject to minimal variances;
ii) allowing the subdivision of land into parcels less than 16 ha (40 acres) only through the preparation and adoption of a secondary plan;
iii) allowing the redesignation of Rural land to Neighbourhood or Industrial only where there is a demonstrated need for additional land to satisfy projected demand and where a full range of municipal infrastructure can be provided in an environmentally-sound, economical, and timely manner;
iv) preparing secondary plans for unserviced residential areas to delineate boundaries of those areas, to establish minimum parcel sizes, and to establish appropriate servicing criteria (those Rural Areas currently governed by secondary plans are identified on Policy Plate A);
v) allowing the possible subdivision or conversion of land in unserviced residential areas to new residential use giving priority to property having frontage on an existing improved right-of-way other than a highway and requiring the proposed development be consistent with immediately prevailing densities;
vi) ensuring the protection of ground water quality and quantity in unserviced residential development areas by regulating development and sewage disposal; and
vii) considering the South St. Vital Action Area Plan to be an unserviced residential area secondary plan as provided for under item ii) above, notwithstanding item v) above.

The intent of the above policy is to restrict the development of unserviced residential areas on the periphery of the urban area on the grounds that scattered development of this nature constitutes urban sprawl and complicates the future orderly development of rural areas at urban densities. *Plan Winnipeg* recognizes that there are some existing rural residential neighbourhoods, and allows for limited infill development in these areas at prevailing densities through the Secondary Plan process. However, the Planning Property and Development Department believes that McConnell Road does not fit the criteria described in 3B-08. Moreover, an amendment to the *Wilkes South Secondary Plan* to allow for the development of the McConnell Road properties would be contrary to the intent of *Plan Winnipeg* policy 3B-08.

The McConnell Road Group wishes to challenge the interpretation of the above policy. Their argument is that the entire Wilkes South Area is rural residential in character and prevailing densities should be determined based on the level of development along the existing streets. Therefore, the creation of new streets should be allowed with development densities similar to existing housing in the neighbourhood. The Planning, Property and Development Department would contend, however, that this interpretation does not represent rational infill development, as it would further fragment property ownership and frustrate future suburban expansion.

The Executive Policy Committee is charged with the responsibility of ruling on matters of interpretation involving *Plan Winnipeg*. If EPC agrees with the Department's interpretation of *Plan Winnipeg* respecting unserviced residential development in rural policy areas, then the above-cited *Plan Winnipeg* policy must be amended in order for development to proceed along McConnell Road. Any changes to this clause, however, would represent a significant change in policy direction for *Plan Winnipeg* and would open the door to similar development in other Rural Policy Areas in the City. This is a policy matter that must take into account the objectives of the *Capital Region Strategy*.

Under the *City of Winnipeg Charter*, The McConnell Road subdivision could proceed on the basis of the following:

- *Plan Winnipeg* amendment to Policy 3B-08, or a broader interpretation of the existing policy.
- Amendment to the *Wilkes South Secondary* Plan to include McConnell Road in the planned area.
- Rezoning and Subdivision (DASZ) application to upgrade McConnell Road and create buildable lots.

The Planning, Property and Development Department has been consistent in its position that the development proposed by Mr. Grande does not comply with *Plan Winnipeg*, nor is it in the best interests of the City of Winnipeg to amend *Plan Winnipeg* to enable the development. Executive Policy Committee formally adopted this position at its meeting of December 6, 2000, as recommended in a report from the Director of Planning, Property and Development dated November 9, 2000. This report recommends that EPC reaffirm this position.

Financial Impact Statement **Date:** 14-May-03

COMMENTS:

As this report is recommending that the subdivision application be rejected - there are no known financial implications to the City.

Gord Courage, Manager
Support Services Division

IN PREPARING THIS REPORT, THERE WAS CONSULTATION WITH AND CONCURRENCE BY:

N/A

THIS REPORT SUBMITTED BY:

Planning, Property and Development Department
Division: Planning and Land Use
Prepared by: Ross Mitchell
PPD File #: EP-1.2 (Vol.5)

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