Minute No. 360
Report - Standing Policy Committee on Public Works – May 5, 2005

Item No. 4 **Building Alignment By-law - McGillivray Boulevard between Kenaston Boulevard and the R. M. of MacDonald File SC-3.11(31)**

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Public Works and submits the following to Council:

1. That a Building Alignment By-law affecting McGillivray Boulevard west of Kenaston Boulevard, as outlined in the administrative report dated May 3, 2005, be approved.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary by-law in accordance with the foregoing and submit same directly to Council.

3. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Minutes - Executive Policy Committee – May 11, 2005

Report - Standing Policy Committee on Public Works – May 5, 2005

DECISION MAKING HISTORY:

Moved by Councillor Eadie,
That the recommendation of the Standing Policy Committee on Public Works be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On May 5, 2005, the Standing Policy Committee on Public Works concurred in the administrative recommendation and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

RE: PROPOSED BUILDING ALIGNMENT BY-LAW FOR McGILLIVRAY BOULEVARD BETWEEN KENASTON BOULEVARD AND THE R.M. OF MacDONALD

FOR SUBMISSION TO: **Standing Policy Committee on Public Works**

ORIGINAL REPORT SIGNED BY: **L. S. W. Larkin, P. Eng, Director of Public Works**

REPORT DATE: **May 3, 2005**

RECOMMENDATION:

That the attached building alignment by-law be enacted affecting McGillivray Boulevard west of Kenaston Boulevard.

REPORT SUMMARY:

Key Issues:

- A widening on the north side of McGillivray Boulevard, between Kenaston Boulevard and the R.M of MacDonald, is expected to be necessary to allow for the future construction of a four-lane divided roadway.

- A building alignment by-law prevents the construction of buildings within lands required for future right-of-way. This avoids the possibility that property owners would develop within the projected right of way, with the result that these buildings would have to be demolished if and when the City purchases or expropriates the land.

- Similar by-laws have already been enacted for streets such as Osborne Street, Balmoral Street, Broadway and Academy Road.

Implications of the Recommendation(s):

General Implications:

	None
	For the organization overall and/or other departments
X	For the community and/or organizations external to the City
	Involves a multi-year contract

Comments: The By-law will impact property owners on the north side of McGillivray Boulevard west of Kenaston in that it will prevent development within 27.5 metres of the current street line plus a set-back consistent with the Zoning By-law.

Policy Implications:

[x] No
[ ] Yes

Comments:

Environmental Implications:

[x] No
[ ] Yes

Comments:

Human Resource Implications:

[x] No
[ ] Yes

Comments:

Financial Implications:

[x] Within approved current and/or capital budget
[ ] Current and/or capital budget adjustment needed

Comments:

REASON FOR THE REPORT:

The attached proposed by-law will prevent development within land that is expected to be needed for the widening of McGillivray Boulevard between Kenaston Boulevard and the west City limit. Only Council can enact a by-law.

HISTORY:

McGillivray Boulevard is a Regional Street and major arterial route serving southeast Winnipeg and the adjacent Rural Municipality of MacDonald. The route starts at Pembina Highway and runs in a southwesterly direction, with major intersections at Waverley Street and Kenaston Boulevard. West of Brady Road at the City limit, the route becomes Provincial Trunk Highway 3 in the R.M. of MacDonald.

Between Pembina Highway and Waverley Street, McGillivray Boulevard is a four-lane divided roadway. West of Waverley Street to the City limit it is a two-lane roadway with several channelized intersections. Between Waverley Street and Kenaston Boulevard sufficient right-of-way has been secured through development agreements to accommodate an expansion to four lanes.

Between Kenaston Boulevard and the R.M. of MacDonald, a distance of approximately 1.4 kilometres, the widening has only been completed at 1660 Kenaston Boulevard. West of that point, it is expected to be necessary at some point in the future to acquire 27.5 metres of land on the north side of McGillivray Boulevard to allow for future street widening (see FIGURE 1). The width of 27.5m is necessary to accommodate the future westbound lanes, left and right turn lanes, shoulders, a ditch and a boulevard to accommodate active transportation through the construction of a sidewalk or recreational path, as well as to maintain consistent alignment for relocation of underground utilities. The width is consistent with acquisitions east of Kenaston, and with the widening of PTH 3 as proposed by Manitoba Transportation and Government Services (Highways.)

It is anticipated that some of the land may be required within the next 5 years for minor widenings to improve the east-west vehicular capacity on McGillivray Boulevard near Kenaston Boulevard. This may include an additional westbound through lane or additional left-turn lanes.

The construction of the ultimate 4-lane divided roadway is not expected to occur for at least 10 years, although this may have to be accelerated once the impact of proposed commercial/retail developments are realized.

The widening of McGillivray Boulevard is not part of the 2006 to 2010 5-year Capital Forecast.

DISCUSSION:

The traffic generated by continued development in this area is anticipated to accelerate the need to widen McGillivray Boulevard, especially in the vicinity of Kenaston Boulevard. A by-law preventing development near the street avoids the possibility that buildings would be constructed within the area of the projected future street widening, with the result that buildings constructed would have to be demolished if and when the land is acquired for the street widening.

Clause 139(k) of the City of Winnipeg Charter permits Council to pass by-laws restricting the distance from a street boundary within which a building shall not be constructed. This provision is a successor to s. 518 of The City of Winnipeg Act, which stated: “For the purpose of maintaining a uniform alignment or as a preliminary step to the widening of a street, or part of a street, the city may pass by-laws regulating and controlling the distance from a street line within which a building shall not be placed.”

At the time that the widening is required, it will be necessary to purchase or expropriate land for this purpose. Case law has determined the criteria that are to be used for determining the value of land affected by a by-law of this nature.

In addition to the 27.5m that would be required for any future street widening, the proposed By-law prevents development within the set-back distance prescribed in the Zoning By-law from the projected right-of-way. This ensures that any new buildings are constructed in a location that is compatible with the future widening.

The by-law would not apply to any existing buildings. Similar alignment by-laws have been enacted on streets such as Osborne Street, Balmoral Street, Broadway and Academy Road to allow for future widenings.

Financial Impact Statement Date: April 27, 2005

Project Name:

PROPOSED BUILDING ALIGNMENT BY-LAW FOR McGILLIVRAY BOULEVARD BETWEEN KENASTON BOULEVARD AND THE R.M. OF MacDONALD

COMMENTS:

There is no financial impact anticipated as a reslt of enacting the by-law recommended in this report.

"Original Signed by Darcy Stewart, CA"

Manager of Finance & Administration

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In preparing this report there was consultation with, and concurrence by:

Legal Services Division
Planning Property and Development Department

THIS REPORT SUBMITTED BY:

Department: Public Works Department
Division: Transportation Division
Prepared by: Neil Myska,P. Eng. Streets Planning Engineer..... 986-7774
Processed by: Carol Kawaza, Secretary to Transportation..... 986-5288
File No. P-30
Document Name: McGillivray By-law.doc

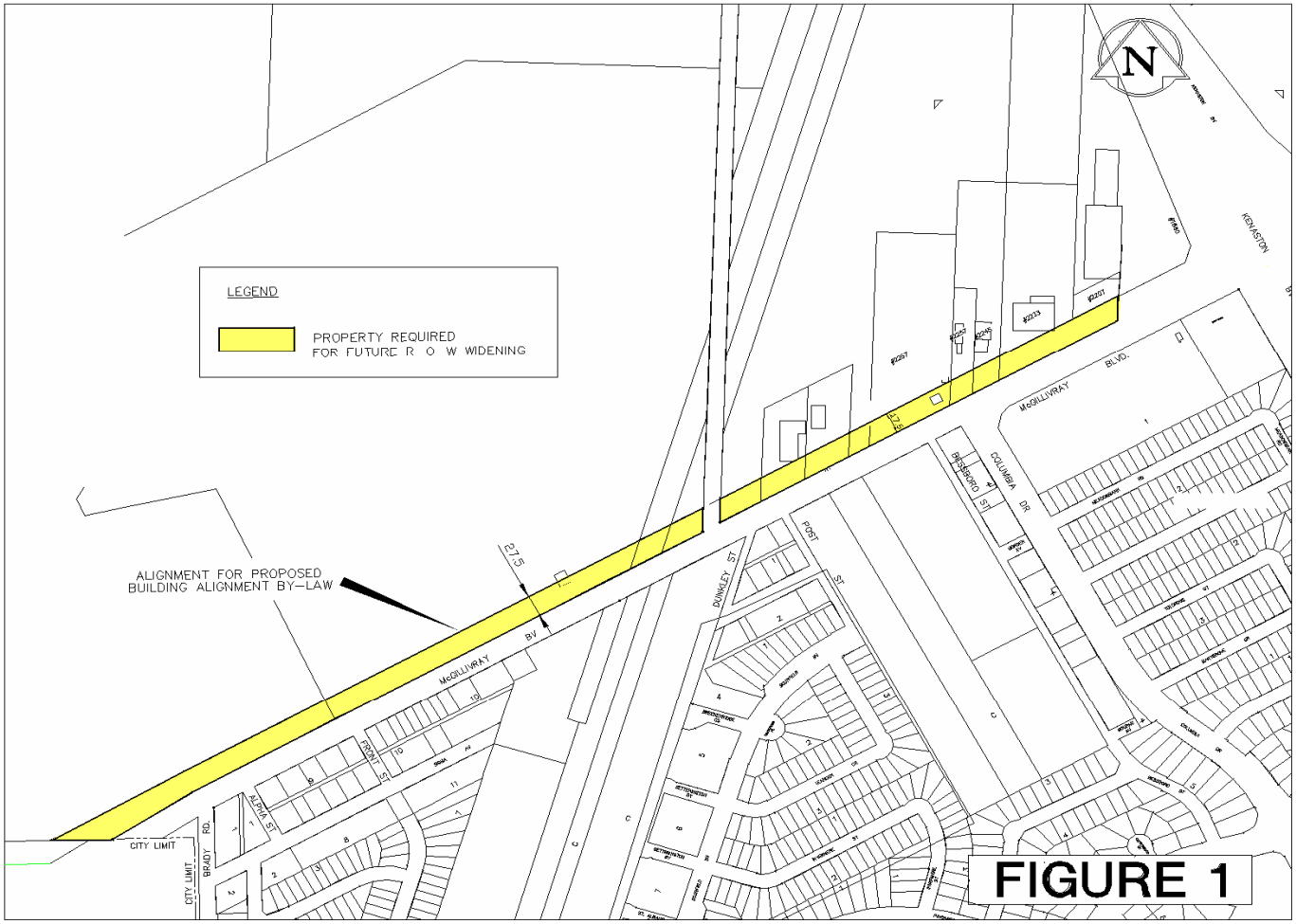

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LEGEND
PROPERTY REQUIRED
FOR FUTURE R O W WIDENING
ALIGNMENT FOR PROPOSED
BUILDING ALIGNMENT BY-LAW
27.5
22.5
McGILLIVRAY BV
McGILLIVRAY BLVD.
KENASTON
DUNKLEY ST
POST ST
SHERBORO ST
COLUMBIA DR
FRONT ST
ALPHA ST
BRADY RD.
CITY LIMIT
CITY LIMIT

FIGURE 1

THE CITY OF WINNIPEG

BY-LAW NO. /2005

A By-law of THE CITY OF WINNIPEG to establish a distance from a portion of McGillivray Boulevard within which a building shall not be constructed.

WHEREAS *The City of Winnipeg Charter* authorizes the City of Winnipeg to pass by-laws respecting the distance from a street boundary within which a building shall not be constructed;

AND WHEREAS it is anticipated that it will be necessary to widen the portion of McGillivray Boulevard west of Kenaston Boulevard to the boundary of the City of Winnipeg and the Rural Municipality of MacDonald;

NOW THEREFORE THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

1. No person may construct a building within

   (a) twenty-seven and one-half (27.5) metres; plus

   (b) for each property, an additional distance equal to the front yard, corner side yard or rear yard, as the case may be, required by the Winnipeg Zoning By-law;

of the northern boundary of the existing right of way, being McGillivray Boulevard, between the eastern edge of the property commonly known as 2207 McGillivray and legally described as

> all that portion of OTM lot 59 Parish of St. Boniface described as follows: commencing at the southwesterly angle of said lot, thence northerly along the western limit of said lot, 208.7 feet, thence easterly parallel to the southern limit of said lot, 208.7 feet, thence southerly parallel to the western limit of said lot to the said southern limit, thence westerly along the said southern limit to the point of commencement

on the east and the municipal boundary of the City of Winnipeg and the Rural Municipality of MacDonald on the west.

DONE AND PASSED, in Council assembled, this day of , 2005.

_____
Mayor

_____
City Clerk

Approved as to content:

_____
Director of Planning, Property
and Development

Certified as to form:

_____
for City Solicitor/Manager of
Legal Services