Minute No. 506
Report – Executive Policy Committee – September 10, 2019

Item No. 4 **Zoning Agreement Amendment – 41 Omand's Creek Boulevard (Point Douglas Ward)**
File ZAA 3/2019

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee and adopted following:

1. That Zoning Agreement Caveat 255629/1 under File DASZ 10/1977 dated September 20th, 1978, be discharged in its entirety.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to discharge Zoning Agreement Caveat 255629/1 under File DASZ 10/1977, as approved in aforesaid Recommendations 1.

3. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

4. That the Director of Legal Services and City Solicitor be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

Report – Executive Policy Committee – September 10, 2019

DECISION MAKING HISTORY:

Moved by His Worship Mayor Bowman,

That the recommendation of the Executive Policy Committee be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 10, 2019, the Executive Policy Committee concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On July 9, 2019, the Lord Selkirk-West Kildonan Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, submitted its recommendation to the Executive Policy Committee.

PUBLIC HEARING SUMMARY

File: ZAA 3/2019

Before: Lord Selkirk-West Kildonan Community Committee
Councillor Sharma, Chairperson
Councillor Eadie
Councillor Santos

Public Hearing: July 9, 2019
Council Building, 510 Main Street

Applicant: J. Wintrup Consulting Ltd.
(John Wintrup)

Subject:



Premises Affected: 41 Omands Creek Boulevard

For submission to: Executive Policy Committee

Prepared by: P. Prinsloo, Senior Committee Clerk
Lord Selkirk-West Kildonan Community Committee

Report date: July 10, 2019

Community Committee Recommendation:

On July 9, 2019, the Lord Selkirk-West Kildonan Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, recommended to the Executive Policy Committee:

1. That Zoning Agreement Caveat 255629/1 under File DASZ 10/1977 dated September 20th, 1978, be discharged in its entirety.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to discharge Zoning Agreement Caveat 255629/1 under File DASZ 10/1977, as approved in aforesaid Recommendations 1.

3. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

4. That the Director of Legal Services and City Solicitor be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

The Lord Selkirk-West Kildonan Community Committee provided the following supporting reason for its recommendation:

1. I heard from the planning department on the explanation that he had provided about the zero setback and I am comfortable with approving the removal of the zoning agreement and I also feel comfortable with the permitting process that they need to go through to ensure that everything is up to code, I'm conformable with that, it makes me feel very comfortable with the expansion.

Exhibits Filed:

1. Application dated May 13, 2019
2. Notification of Public Hearing dated May 23, 2019
3. Manitoba Status of Title 2733073/1
4. Letter of authorization dated May 8, 2019 from 5767688 Manitoba Inc. to J. Wintrup Consulting Ltd.
5. Surveyor's Building Location Certificate and sketch dated March 27, 2019
6. Caveat 255629/1
7. Report from the Urban Planning Division dated June 25, 2019
8. Inspection Report
9. Recording of Representations

REPRESENTATIONS:

In Support:

Jeff Hanson

In Opposition

Nil

For Information:

Nil

For the City:

R. Hayer, Planner, Planning, Property and Development Department

Exhibit "7" referred to in ZAA 3/2019

ADMINISTRATIVE REPORT

Title: ZAA 3/2019 – 41 Omands Creek Blvd.

Issue: For consideration at the Public Hearing to discharge the Zoning Agreement under DASZ 10/1977.

Critical Path: Lord Selkirk West Kildonan Community Committee – Standing Policy Committee on Property and Development – Executive Policy Committee – Council as per the *Development Procedures By-law* and *The City of Winnipeg Charter*.

AUTHORIZATION

Author	Department Head	CFO	CAO
B. Smith, RPP	N/A	N/A	

RECOMMENDATIONS

1. That Zoning Agreement Caveat 255629/1 under File DASZ 10/1977 dated September 20th, 1978, be discharged in its entirety.
2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to discharge Zoning Agreement Caveat 255629/1 under File DASZ 10/1977, as approved in aforesaid Recommendations 1.
3. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.
4. That the Director of Legal Services and City Solicitor be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

REASON FOR THE REPORT

- The Zoning Agreement under DASZ 10/1977 requires a 25 foot front yard, 10 foot side yards, 15 foot landscaped buffer for parking, loading or storage within 25 feet of the public right-of-way, and prohibits new private approaches within 275 feet of a rail right-of-way.

- The Owner wishes to expand the existing warehouse into the south side yard. The subject caveat prevents a southward expansion into the side yard, thus the Owner wishes to discharge said caveat. An amendment to the Zoning Agreement is required to proceed.
- A zoning agreement amendment requires a Public Hearing as per the *Development Procedures By-law* and *The City of Winnipeg Charter.*
- The Report is being submitted for the Committee's consideration of the development application at the Public Hearing.

IMPLICATIONS OF THE RECOMMENDATIONS

- If the recommendations of the Urban Planning Division are concurred in, the proposal can proceed.

HISTORY

DASZ 10/1977

- On September 20th, 1978, the zoning agreement approved under DASZ 10/1977 was registered on the land title as part of a subdivision and rezoning application.

SUBMITTED BY

Department	Planning, Property and Development
Division	Urban Planning
Prepared by:	R. Hayer
Date:	June 25, 2019
File No.	ZAA 3/2019

List of Schedules and Attachments

1. Appendix A – Planning Discussion

APPENDIX 'A'

DATE: June 25, 2019

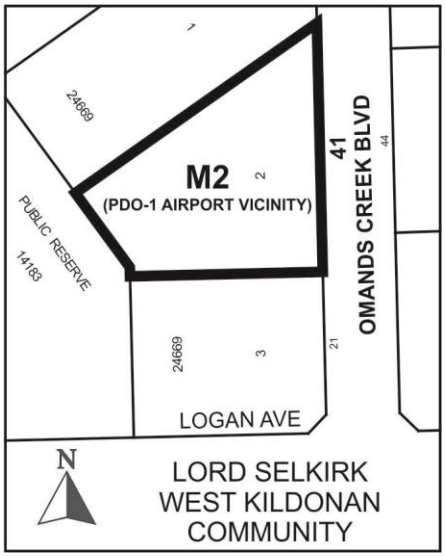
FILE: **ZAA 3/2019**
RELATED FILES: DASZ 10/1977

COMMUNITY: Lord Selkirk West Kildonan
NEIGHBOURHOOD #: 2.225 (Omands Creek Industrial)

SUBJECT: For consideration at the Public Hearing to discharge the Zoning Agreement under DASZ 10/1977.

LOCATION: 41 Omands Creek Blvd

LEGAL DESCRIPTION: LOT 2 PLAN 24669 NW 14 11 2E



APPLICANT: J. Wintrup Consulting (John Wintrup)
301-139 Roslyn Road
Winnipeg, Manitoba
R3L 0G7

OWNER: 5767688 Manitoba Inc
41 Omands Creek Boulevard
R2R 2V2

RECOMMENDATION: Approval

SITE DESCRIPTION

- The subject property is located on the west side of Omands Creek Boulevard in the Omands Creek Industrial Neighbourhood and the Point Douglas Ward.
- The property has 228 feet of frontage along Omands Creek Boulevard and a total lot area of approximately 45,444 square feet (1.0 acre).
- The property is designated 'Employment Lands-General Manufacturing' policy area under *OurWinnipeg* and *Complete Communities;* and is zoned "M2" Manufacturing General District under the *City of Winnipeg Zoning By-law* (no. 200/2006).
- Currently on the property is a one-storey industrial building with accessory parking and loading area.
- Along the west side (rear) of the property is a Manitoba Hydro Easement area containing Hydro poles with extending guy wire anchors.

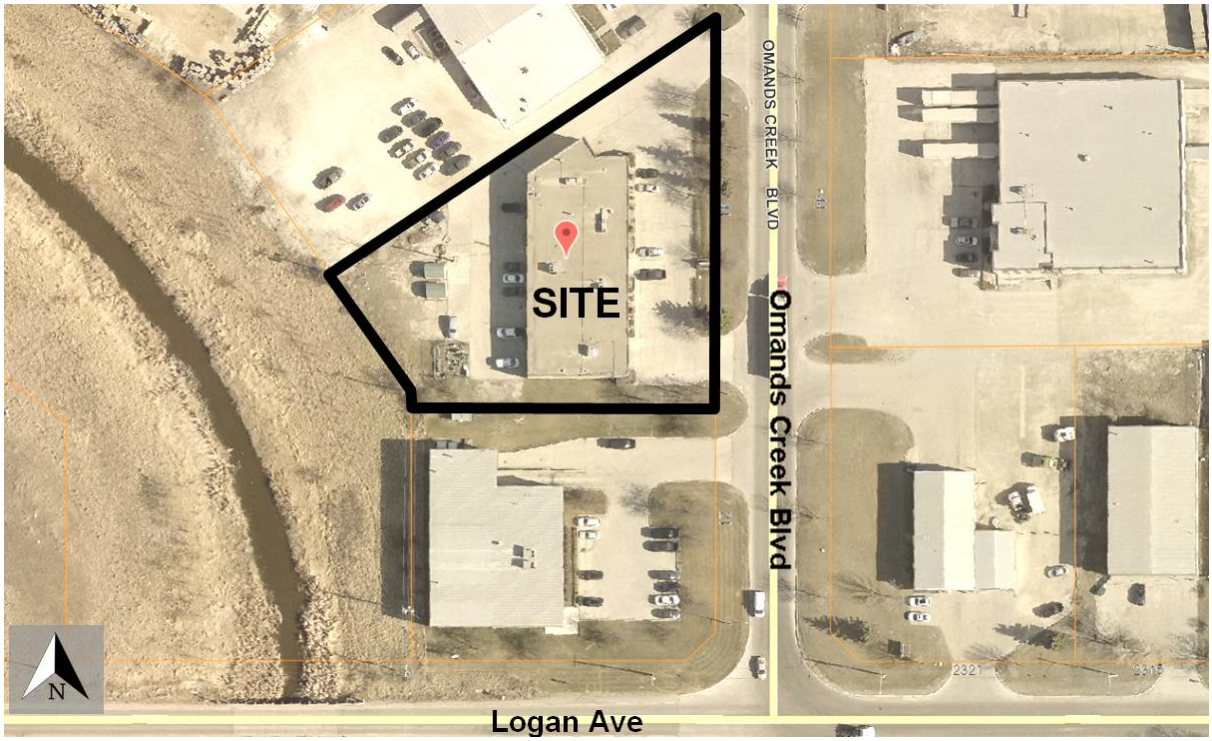


Figure 1: Aerial photograph showing approximate area of subject property (flown 2018)

SURROUNDING LAND USES & ZONING (See Figure 2)

North: Industrial uses zoned "M2" Manufacturing General District.

South: Industrial uses zoned "M2" Manufacturing General District.

East: Omands Creek Boulevard; then Industrial uses zoned “M2” Manufacturing General District.

West: Omands Creek lands zoned “PR1” Parks and Recreation Passive District.

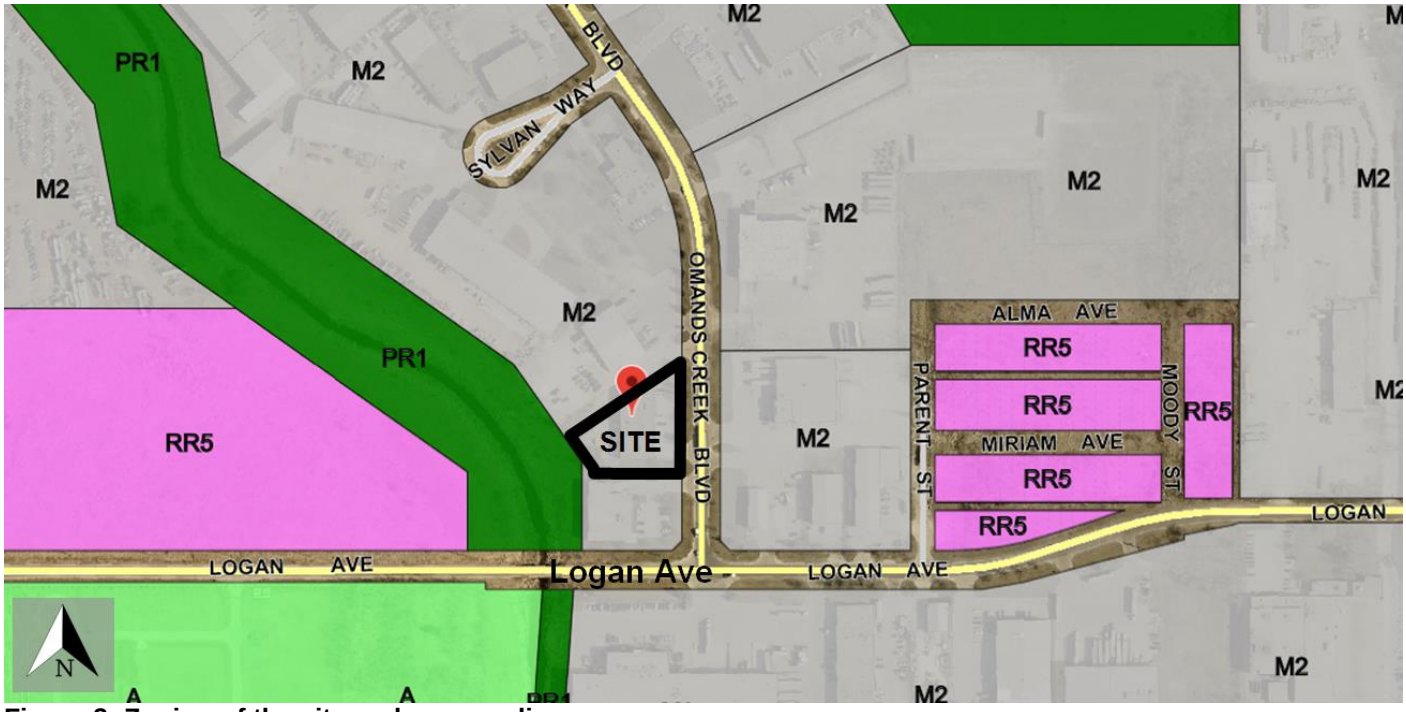


Figure 2: Zoning of the site and surrounding area.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The proposed development involves an expansion of the existing building into the south side yard of the property.
- The existing building is currently occupied by a research, development, and manufacturing company (Dragan Technologies).
- The south side yard is chosen for the building expansion because a Manitoba Hydro easement at the rear of the property prevents the building being expanded westward in to the rear yard.
- The underlying Zoning By-law regulation for the “M2” Manufacturing-General District does not require any side or rear yard requirements. Thus, a Zoning Agreement Amendment is required to proceed with the building expansion as proposed. No variances or change in zoning is being applied for.

ANALYSIS AND ISSUES

COMPLETE COMMUNITIES DIRECTION STRATEGY

- Under the *Complete Communities Direction Strategy* the proposed development is within the 'Employment Lands – General Manufacturing' policy area.
- Key relevant policies include:

  Maximize The Economic Development Potential Of Existing And Future Employment Lands.

CITY OF WINNIPEG ZONING BY-LAW (No. 200/2008)

Zoning District	Minimum Lot Area (Sq. Ft.)	Minimum Lot Width (Ft.)	Minimum Front Yard (Ft.)	Minimum Rear Yard (Ft.) [note a]	Minimum Interior Side Yard (Ft.) [note a]	Minimum Corner Side Yard (Ft.)	Maximum Height of Building. (Ft.)	Maximum Floor Area Ratio
M2	NA	NA	25	0	0	15	100	2.0

NOTES:

a. Where the rear or side lot line abuts the side or rear lot line of an R1, R2 or RMF zoning district, a 25 foot yard must be provided along the side or rear lot line. The side or rear yard must be landscaped pursuant to sections 188 through 193, *Landscaping and Buffering*, and must not be used for parking or loading areas, storage of refuse or materials, or commercial activities of any kind.

LAND USE BY-LAW

The Zoning Agreement Caveat for DASZ 10/77 requires the following:

- *Each building shall have a minimum front yard of twenty-five (25) feet.*
  - The Winnipeg Zoning By-law also requires a minimum front yard of 25 feet for any property zoned "M2" Manufacturing-General district.
- *Each building shall have side yards of ten (10) feet except where a side lot line abuts a street in which case the minimum side yard along that lot line shall be twenty-five (25) feet.*
  - In this case, the applicant is proposing to construct a 7,500 square foot building addition that would result in a zero (0) foot south side yard and therefore not comply with the zoning agreement which requires a minimum side yard of 10 feet.
- *Where any parking, loading or storage of vehicles takes place within twenty-five (25) feet of an abutting street the owner of that site shall construct and maintain a landscaped buffer strip fifteen (15) feet wide designed, planted, and maintained in good condition to the satisfaction of the Commissioner of Environment.*
  - The Winnipeg Zoning By-law does not allow any parking, loading, or storage of vehicles within the required 25 feet front yard. Further, the existing parking area on the property contains and will maintain a 15 foot landscaped buffer strip to Omands Creek Boulevard, which is the abutting street in this case.

- *No private approaches shall be constructed to or from Brookside Boulevard within two hundred and seventy-five (275) feet of the C.N.R. – C.P.R. right-of-way unless first approved by the Commissioner of Works and Operations of the City.*
    - The subject property is not within 275 feet of the C.N.R. – C.P.R. right-of-way.

ZONING AGREEMENT ANALYSIS

- Under the current City of Winnipeg Zoning By-law, properties within an "M2" Manufacturing General zoning district are permitted a 0 foot side yard setback. In light of the Manitoba Hydro Easement along the rear (west) side of the property, which limits the direction in which the subject building could be expanded, the Zoning Agreement Clause creates a hardship.
- Consultation with the City's Riverbank Management Engineer reveals that the developer would be required to apply for a Waterways Permit because the property is partially within the Regulated Area and the City would review the development plans in detail at that time

RECOMMENDATION

The Urban Planning Division recommends **approval** for the following reasons:

- The *Complete Communities Direction Strategy* encourages maximizing the economic development potential of existing employment lands and discharging the subject Caveat would facilitate expansion of an existing industrial business that provides employment within the City of Winnipeg.
- Provisions within the Zoning Agreement Caveat, combined with Hydro easement areas, pose a hardship and create limitations for the direction of building expansion.
- The regulations of the underlying "M2" Manufacturing General zoning district would not require any side yard setback and would prohibit parking in the front yard, thus the Zoning Agreement creates a hardship and contains redundant clauses that are captured in the underlying Zoning By-law entitlements that would typically apply.
- Any issues related to Waterways would be dealt with through the Waterways Permit Review process.

This Report Submitted by:
Planning, Property and Development Department
Urban Planning Division

Report Prepared By: R. Hayer
PPD File # ZAA 3/2019