**Agenda – Council – March 25, 2021**

**Report – Executive Policy Committee – March 17, 2021**

**Item No. 9 Subdivision and Rezoning – 375/385 Softley Road (Transcona Ward) File DASZ 24/2020 [c/r DAV 207254/2020D]**

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 17, 2021, the Executive Policy Committee concurred in the recommendation of the East Kildonan-Transcona Community Committee and submitted the following to Council:

1. That the plan of survey under Development Application No. DASZ 24/2020 be approved for preparation as a plan of survey (the "Plan") by a Manitoba Land Surveyor in accordance with the map dated November 6, 2020 and attached as Schedule "A" to this report, with such minor changes as may be required, and registration in the Winnipeg Land Titles Office.

2. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land to an "M3" Manufacturing Heavy District as shown on the map dated November 6, 2020 and attached as Schedule "A" to this report, subject to the following conditions:

    A. That the Developer enter into a Zoning Agreement with the City pursuant to subsection 240(1) of The City of Winnipeg Charter in accordance with the following:

        i. That an opaque wall or fence, at least ten (10) feet in height, be erected and maintained along the property lines of the subject land, to the satisfaction of the Director of Planning, Property and Development; and

    B. That the City enter into, execute and deliver with the developer a Zoning Agreement in accordance with recommendation 2A, and such other agreements as determined necessary by the City Solicitor/Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

    C. That authority be delegated to the City's Director of Planning, Property and Development (the "Director") to negotiate and approve the terms and conditions of the Zoning Agreement and any Ancillary Agreements in accordance with this report and such other terms and conditions determined necessary by the City Solicitor/Director of Legal Services to protect the interests of the City.

3. That Caveat No. 3015456/1 dated July 30, 2004 be discharged.

**Report – Executive Policy Committee – March 17, 2021**

EXECUTIVE POLICY COMMITTEE RECOMMENDATION (continued):

4. That, in lieu of the dedication of land, the Developer shall provide a cash payment in an amount equal to ten percent (10%) of the appraised value of Development Application No. DASZ 24/2020, as determined by the City's Director of Planning, Property and Development.

5. That this matter will be deemed to be concluded and all approvals in connection with this matter will expire if a by-law to implement this report (the "By-law") is not enacted within 2 years after the date on which this report is approved by Council unless the developer applies for an extension of time before the expiration of the 2 year period and Council approves the extension.

6. That, upon instruction from the Director of Planning, Property and Development, the Director of Legal Services/City Solicitor prepare and bring it directly to Council for enactment the By-law in accordance with the above.

7. That the subdivision section of the By-law will come into force when the plan is registered in Winnipeg Land Titles Office.

8. That the zoning section of the by-law will come into force when the Zoning Agreement is registered in the Winnipeg Land Titles Office by way of caveat against the lands described therein.

9. That the By-law will be repealed without coming into force 1 year after the date it is enacted if the Plan and the Zoning Agreement are not registered in accordance with recommendation 7 and 8 unless the developer applies for an extension of time before the expiration of the 1 year period and Council approves the extension.

10. That this matter will be deemed to be concluded and all approvals in connection with this matter will expire if the necessary Plan approval signatures on behalf of the City have not been secured within 1 year after the date on which the By-law is enacted unless the developer applies for an extension of time before the expiration of the 1 year period and Council approves the extension.

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

12. That the variance order shall come into force and effect upon the coming into force and effect of the zoning by-law for the subject land under file DASZ 24/2020.

**Report – Executive Policy Committee – March 17, 2021**

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 17, 2021, the Executive Policy Committee concurred in the recommendation of the East Kildonan-Transcona Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On March 3, 2021, the East Kildonan-Transcona 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.

On February 8, 2021, the East Kildonan-Transcona Community Committee adjourned the public hearing to its meeting on March 2, 2021 at 10:30 a.m. in the Council Building at 510 Main Street.

## PUBLIC HEARING SUMMARY

**File:** DASZ 24/2020

**Before:** East Kildonan-Transcona Community Committee
Councillor Schreyer, Chairperson
Councillor Browaty
Councillor Nason

**Public Hearing:** March 2, 2021
February 8, 2021
Council Building, 510 Main Street

**Applicant:** J.R. Cousin Consultants Ltd. (Matt Fisher)

**Subject:**



**Premises Affected:** 375/385 Softley Road

**For submission to:** The Executive Policy Committee

**Prepared by:** T. Pomanski, Committee Clerk
East Kildonan-Transcona Community Committee

**Report date:** March 2, 2021

**Community Committee Recommendation:**

On March 2, 2021, the East Kildonan-Transcona 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 the plan of survey under Development Application No. DASZ 24/2020 be approved for preparation as a plan of survey (the "Plan") by a Manitoba Land Surveyor in accordance with the map dated November 6, 2020 and attached as Schedule "A" to this report, with such minor changes as may be required, and registration in the Winnipeg Land Titles Office.

2. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land to an "M3" Manufacturing Heavy District as shown on the map dated November 6, 2020 and attached as Schedule "A" to this report, subject to the following conditions:

    A. That the Developer enter into a Zoning Agreement with the City pursuant to subsection 240(1) of The City of Winnipeg Charter in accordance with the following:

        i. That an opaque wall or fence, at least ten (10) feet in height, be erected and maintained along the property lines of the subject land, to the satisfaction of the Director of Planning, Property and Development; and

    B. That the City enter into, execute and deliver with the developer a Zoning Agreement in accordance with recommendation 2A, and such other agreements as determined necessary by the City Solicitor/Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

    C. That authority be delegated to the City's Director of Planning, Property and Development (the "Director") to negotiate and approve the terms and conditions of the Zoning Agreement and any Ancillary Agreements in accordance with this report and such other terms and conditions determined necessary by the City Solicitor/Director of Legal Services to protect the interests of the City.

3. That Caveat No. 3015456/1 dated July 30, 2004 be discharged.

4. That, in lieu of the dedication of land, the Developer shall provide a cash payment in an amount equal to ten percent (10%) of the appraised value of Development Application No. DASZ 24/2020, as determined by the City's Director of Planning, Property and Development.

5. That this matter will be deemed to be concluded and all approvals in connection with this matter will expire if a by-law to implement this report (the "By-law") is not enacted within 2 years after the date on which this report is approved by Council unless the developer applies for an extension of time before the expiration of the 2 year period and Council approves the extension.

6. That, upon instruction from the Director of Planning, Property and Development, the Director of Legal Services/City Solicitor prepare and bring it directly to Council for enactment the By-law in accordance with the above.

7. That the subdivision section of the By-law will come into force when the plan is registered in Winnipeg Land Titles Office.

8. That the zoning section of the by-law will come into force when the Zoning Agreement is registered in the Winnipeg Land Titles Office by way of caveat against the lands described therein.

9. That the By-law will be repealed without coming into force 1 year after the date it is enacted if the Plan and the Zoning Agreement are not registered in accordance with recommendation 7 and 8 unless the developer applies for an extension of time before the expiration of the 1 year period and Council approves the extension.

10. That this matter will be deemed to be concluded and all approvals in connection with this matter will expire if the necessary Plan approval signatures on behalf of the City have not been secured within 1 year after the date on which the By-law is enacted unless the developer applies for an extension of time before the expiration of the 1 year period and Council approves the extension.

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

12. That the variance order shall come into force and effect upon the coming into force and effect of the zoning by-law for the subject land under file DASZ 24/2020.

The East Kildonan-Transcona Community Committee provided the following supporting reasons for its recommendation:

1. I appreciate getting to hear from the full public service with regards to the zoning changes. I did reach out to the adjacent Ward Councillor to advise him that his residential residents may have a concern about it. I don't know if any communication took place on that, but seeing no presentations from adjoining residential concerns, obviously they are either unaware or accepting of this change. I see the business regularly and it doesn't raise a lot of concern. The variance was concerning to me. I wanted to make sure that there were no long-term negative effects of it.

**Exhibits Filed:**

1. Application dated November 2, 2020
2. Notification of Public Hearing dated December 17, 2020
3. Manitoba Status of Titles 1585104/1 1585105/1, 1585106/1, 1585107/1, 1585109/1, 2982083/1
4. Letter of authorization dated August 18, 2020 from Ron Vertz, McAsphalt Industries Limited to J.R. Cousin Consultants Ltd.
5. Surveyor's Building Location Certificate and sketch dated September 10 and 11, 2020
6. Caveat 3015456/1
7. Statutory Easement between McAsphalt Industries Limited and the City of Winnipeg, 5020013/1
8. Plans (1 page)
9. Report from the Urban Planning Division dated January 25, 2021
10. Inspection Report
11. Notice of Adjournment dated February 12, 2021

REPRESENTATIONS:

In Support:

Matt Fisher
Eugene Langdon

In Opposition:

Nil

For Information:

Nil

For the City:

F. Ojo, Planner, Planning, Property and Development Department

Exhibit “9” referred to in File DASZ 24/2020

# ADMINISTRATIVE REPORT

**Title:** DASZ 24/2020 – 375/385 Softley Road

**Issue:** An application for consideration at the Public Hearing to consolidate two lots and rezone land from an “M2” Manufacturing General District to “M3” Manufacturing Heavy District.

**Critical Path:** East Kildonan - Transcona 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 |
|---|---|---|---|
| F. Ojo | n/a | n/a | |

## RECOMMENDATIONS

1. That the plan of survey under Development Application No. DASZ 24/2020 be approved for preparation as a plan of survey (the “Plan”) by a Manitoba Land Surveyor in accordance with the map dated November 6, 2020 and attached as Schedule “A” to this report, with such minor changes as may be required, and registration in the Winnipeg Land Titles Office,

2. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land to an “M3” Manufacturing Heavy District as shown on the map dated November 6, 2020 and attached as Schedule “A” to this report, subject to the following conditions:

    A. That the Developer enter into a Zoning Agreement with the City pursuant to subsection 240(1) of The City of Winnipeg Charter in accordance with the following:

        i. That an opaque wall or fence, at least ten (10) feet in height, be erected and maintained along the property lines of the subject land, to the satisfaction of the Director of Planning, Property and Development; and

    B. That the City enter into, execute and deliver with the developer a Zoning Agreement in accordance with recommendation 2A, and such other agreements as determined necessary by the City Solicitor/Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

    C. That authority be delegated to the City’s Director of Planning, Property and Development (the “Director”) to negotiate and approve the terms and conditions

of the Zoning Agreement and any Ancillary Agreements in accordance with this report and such other terms and conditions determined necessary by the City Solicitor/Director of Legal Services to protect the interests of the City.

3. That Caveat No. 3015456/1 dated July 30, 2004 be discharged.

4. That, in lieu of the dedication of land, the Developer shall provide a cash payment in an amount equal to ten percent (10%) of the appraised value of Development Application No. DASZ 24/2020, as determined by the City's Director of Planning, Property and Development.

5. That this matter will be deemed to be concluded and all approvals in connection with this matter will expire if a by-law to implement this report (the "By-law") is not enacted within 2 years after the date on which this report is approved by Council unless the developer applies for an extension of time before the expiration of the 2 year period and Council approves the extension.

6. That, upon instruction from the Director of Planning, Property and Development, the Director of Legal Services/City Solicitor prepare and bring it directly to Council for enactment the By-law in accordance with the above.

7. That the subdivision section of the By-law will come into force when the plan is registered in Winnipeg Land Titles Office.

8. That the zoning section of the by-law will come into force when the Zoning Agreement is registered in the Winnipeg Land Titles Office by way of caveat against the lands described therein.

9. That the By-law will be repealed without coming into force 1 year after the date it is enacted if the Plan and the Zoning Agreement are not registered in accordance with recommendation 7 and 8 unless the developer applies for an extension of time before the expiration of the 1 year period and Council approves the extension.

10. That this matter will be deemed to be concluded and all approvals in connection with this matter will expire if the necessary Plan approval signatures on behalf of the City have not been secured within 1 year after the date on which the By-law is enacted unless the developer applies for an extension of time before the expiration of the 1 year period and Council approves the extension.

11. That the proper officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

12. That the variance order shall come into force and effect upon the coming into force and effect of the zoning by-law for the subject land under file DASZ 24/2020

## REASON FOR THE REPORT

- The applicant intends to consolidate two industrial zoning lots and rezone them to "M3" Heavy Manufacturing district.
- The proposed rezoning is to facilitate the expansion of an existing asphalt plant.

- Subdivisions and rezonings require 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 two lots will be consolidated and rezoned from "M2" Manufacturing General District to the "M3" Manufacturing Heavy District.

## HISTORY

N/A

## CONSULTATION

The City's Administrative Coordinating Group was consulted in the preparation of this report.

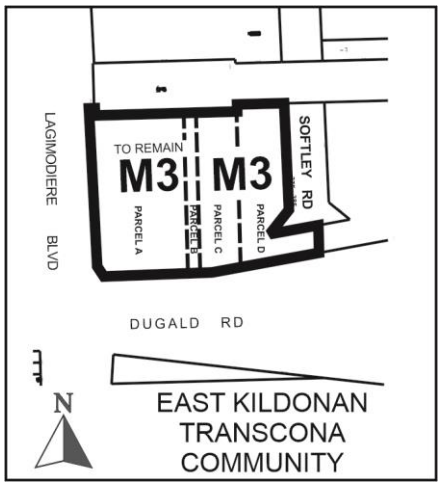
## SUBMITTED BY

| | |
|---|---|
| Department | Planning, Property and Development |
| Division | Urban Planning Division |
| Prepared by | Femi Ojo, MCIP, RPP |
| Date: | January 25, 2021 |
| File No. | DASZ 24/2020 |

1. Appendix A — Planning Discussion
2. Schedule "A" — Recommended File No. DASZ 24/2020 East Kildonan-Transcona Community Committee dated November 6th, 2020.

**APPENDIX 'A'**

| | |
|---|---|
| **DATE:** | January 25, 2021 |
| **FILE:** | **DASZ 21/2020** |
| **RELATED FILES:** | **DASZ 23/1998; DASZ 7/2008; DASZ 34/2011** |
| **COMMUNITY:** | East Kildonan - Transcona |
| **NEIGHBOURHOOD #:** | 5.534 (Dugald) |
| **SUBJECT:** | To create one industrial zoning lot from two lots and rezone from "M2" Manufacturing General to "M3" Manufacturing Heavy. |
| **LOCATION:** | 375 – 385 Softley Road |
| **LEGAL DESCRIPTION:** | PCL A, B, C PLAN 63975 RCMP |




| | |
|---|---|
| **APPLICANT:** | Matt Fisher (J.R. Cousin Consultants Ltd.)<br>91 Scurfield Blvd Unit A<br>Winnipeg, MB R3Y 1G4 |
| **OWNER:** | MCASPHALT INDUSTRIES LIMITED<br>8800 Sheppard Ave E<br>SCARBOROUGH, ON M1B 5R4 |

**RECOMMENDATION:** Approval

**SITE DESCRIPTION**

- The subject property is located on the north east corner of Lagimodiere Boulevard and Dugald Road, in the Dugald neighbourhood of the Transcona ward.
- The subject property is roughly 188,162 sq. ft. in size, with an existing asphalt processing plant on site.
- Under the *Complete Communities Direction Strategy*, the subject site falls within the General Manufacturing Policy Area. The site is currently made up of two lots; the easterly

is zoned “M2” Manufacturing General and the westerly lot is zoned “M3” Manufacturing Heavy.




**Figure 1: Site map of subject property and surrounding neighbourhood**

**SURROUNDING ZONING & USES (See Figure 2)**

**North:** CNR local line land zoned “M1” Manufacturing Light.

**South:** Dugald Road, then industrial warehouse zoned “M2” Manufacturing General.

**East:** Softley Road, then industrial warehouse zoned “M2” Manufacturing General.

**West:** Lagimodiere Blvd, then manufacturing uses zoned “M2” Manufacturing General.

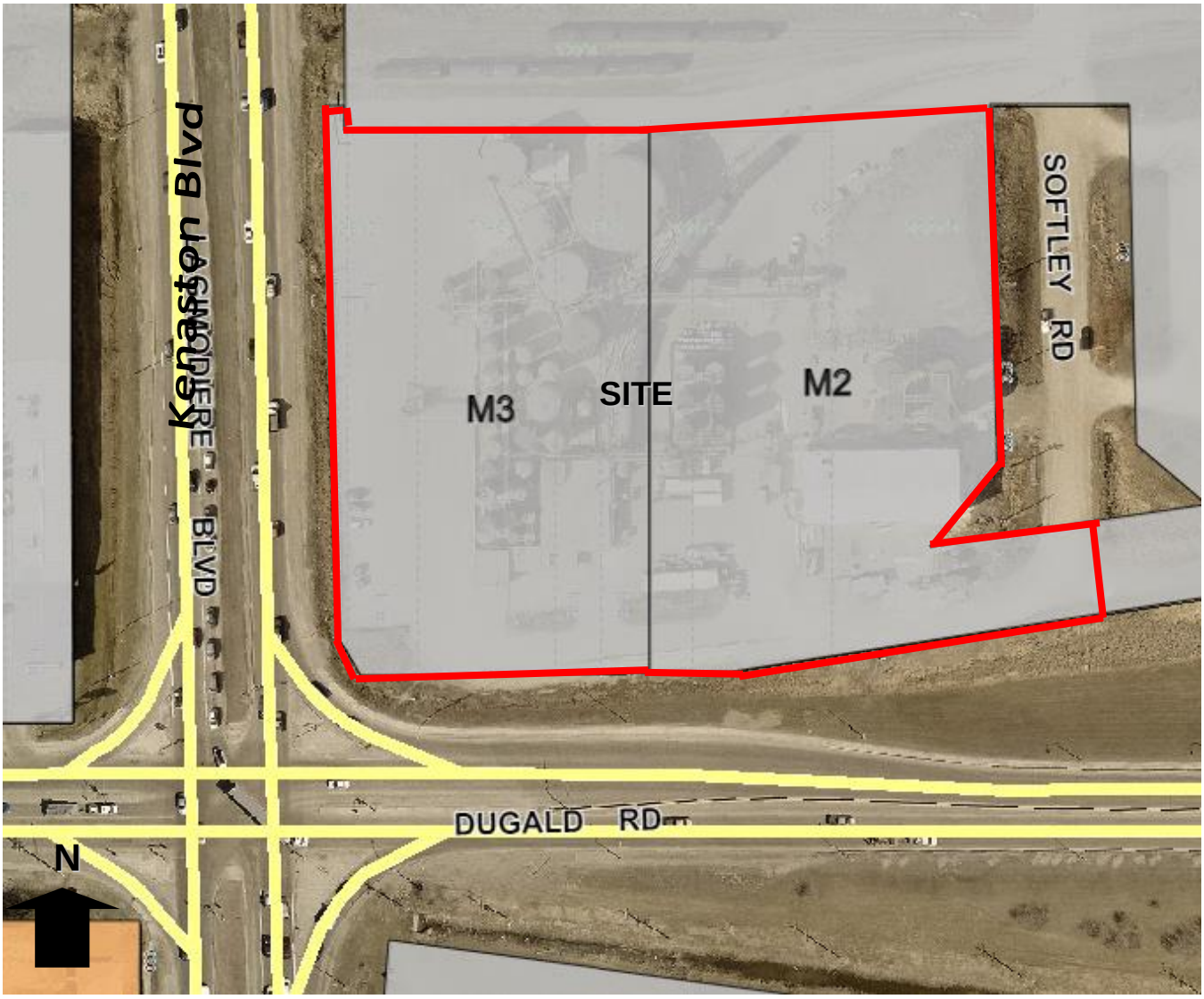


**Figure 2: Zoning of the subject site**

**DESCRIPTION OF THE PROPOSED DEVELOPMENT**

- The applicant intends to consolidate two existing industrial lots into one lot and rezone the "M2" "M2" Manufacturing General portion to "M3" Manufacturing Heavy.
- The proposed rezoning is to facilitate the expansion of the existing asphalt plant on site. The applicant is proposing a three new aboveground storage tanks within the northeast corner of the site.
- A front yard variance is required for the maintenance of an existing weigh scale on site. An associated variance application has been made under file DAV 20 - 207254\D (see Planner's report).

## ANALYSIS AND ISSUES

COMPLETE COMMUNITIES DIRECTION STRATEGY

- The site falls within the Employment Lands – Manufacturing Specific Policy Area under the Complete Communities Direction Strategy. Key relevant policies guiding the development in this area includes:

    - Consider options to encourage development of under-utilized parcels and obsolete sites.
    - Employment activity will develop and operate in a fashion that is compatible with other land uses, especially residential.
    - Ensure the provision of natural buffers to provide visual screening and separation of conflicting land uses where necessary.
    - Where directed and when warranted, require the abatement of pollution and facilitate the relocation of premises.
    - New employment lands should be located to provide sufficient separation from adjacent non-employment uses and include special development conditions that reduce the potential conflict

The subject proposal is consistent with the above policy in that it will facilitate the expansion of an existing asphalt processing plant to an under-utilized portion of the subject site.

CITY OF WINNIPEG ZONING BY-LAW 200/2006

## SUBDIVISION/REZONING

- The applicant intends to subdivide by consolidating the existing parcel into one, rezone the “M2” Manufacturing General portion of the land to “M3” Manufacturing Heavy for the expansion of the existing Asphalt processing plant on site.
- The reason being that an asphalt processing plant is considered a heavy manufacturing use (Table 4-1 of the Winnipeg Zoning By-law), which is only permitted in the “M3” Zoning District.

- **Current Zoning: “M2” Manufacturing Light.**

  The “M2” zoning district is intended to provide for light manufacturing, processing, service, storage, wholesale, and distribution operations, with some limited outside operations and storage.

- **Proposed Zoning: “M3” Manufacturing Heavy District**
  The “M3” zoning district is intended to provide for light or heavy industrial development, including heavy manufacturing, storage, major freight terminals, waste and salvage, resource extraction, processing, transportation, major utilities, and other related uses, particularly those that require very large buildings, frequent heavy truck traffic for supplies or shipments or that may require substantial mitigation to avoid sound, noise and odor impacts to neighbouring properties.

| Zoning District | Minimum Lot Area (Sq. Ft.) | Maximum Floor Area Ratio | Minimum Front Yard (Ft.) | Minimum Rear Yard (Ft.) | Minimum Interior Side Yard (Ft.) | Minimum Corner Side Yard (Ft.) | Max Building Height (ft.) |
|---|---|---|---|---|---|---|---|
| M3 | N/A | 3.0 | 25 | 0 | 0 | 15 | 150 |

Note 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 areas, storage of refuse or materials, or commercial activities of any kind

**Table 1: Manufacturing Heavy Zoning District Dimensional Standards.**

COMPATIBILITY WITH THE SURROUNDING AREA

- The subject property currently consists of two separate lots, the westerly lot is zoned “M3” Manufacturing Heavy district and the easterly lot is zoned “M2” Manufacturing General district.
- The applicant intends to consolidate the two lots into one and rezone the easterly “M2” Manufacturing General portion to “M3” Manufacturing Heavy in order to facilitate the expansion of an existing asphalt processing plant. The reason being that asphalt plant are considered heavy manufacturing use, which are only permitted in the “M3” zoning district under the principal use table of the Winnipeg Zoning By-law.
- The Urban Planning Division is supportive of the proposed consolidation and rezoning of the lands to “M3” manufacturing Heavy to allow the expansion and continual operation of the existing asphalt processing plant as a permitted use. This will bring the existing use (an Asphalt plant) into compliance with the Zoning By-law given that it is not a permitted use in the “M2” zoning district.
- The proposed expansion and the continual operation of an asphalt processing plant on the subject property is consistent with *Complete Communities Direction Strategy* which encourage consideration for the development of under-utilized parcels and obsolete sites.
- It is also important to note that the subject site is mostly surrounded by other industrial uses except for the residential uses southwest of Lagimodiere and Dugald, which is approximately 360 feet away.
- It is equally worth mentioning that the only variance associated with the proposed subdivision/rezoning is the zero-foot front yard to the existing weigh scale.
- Given the aforementioned, the Urban Planning Division does not anticipate that the expansion and continual operation of the asphalt plant will result in any negative impact on adjoining properties.
- It is therefore recommended that the subject subdivision/rezoning application be approved.

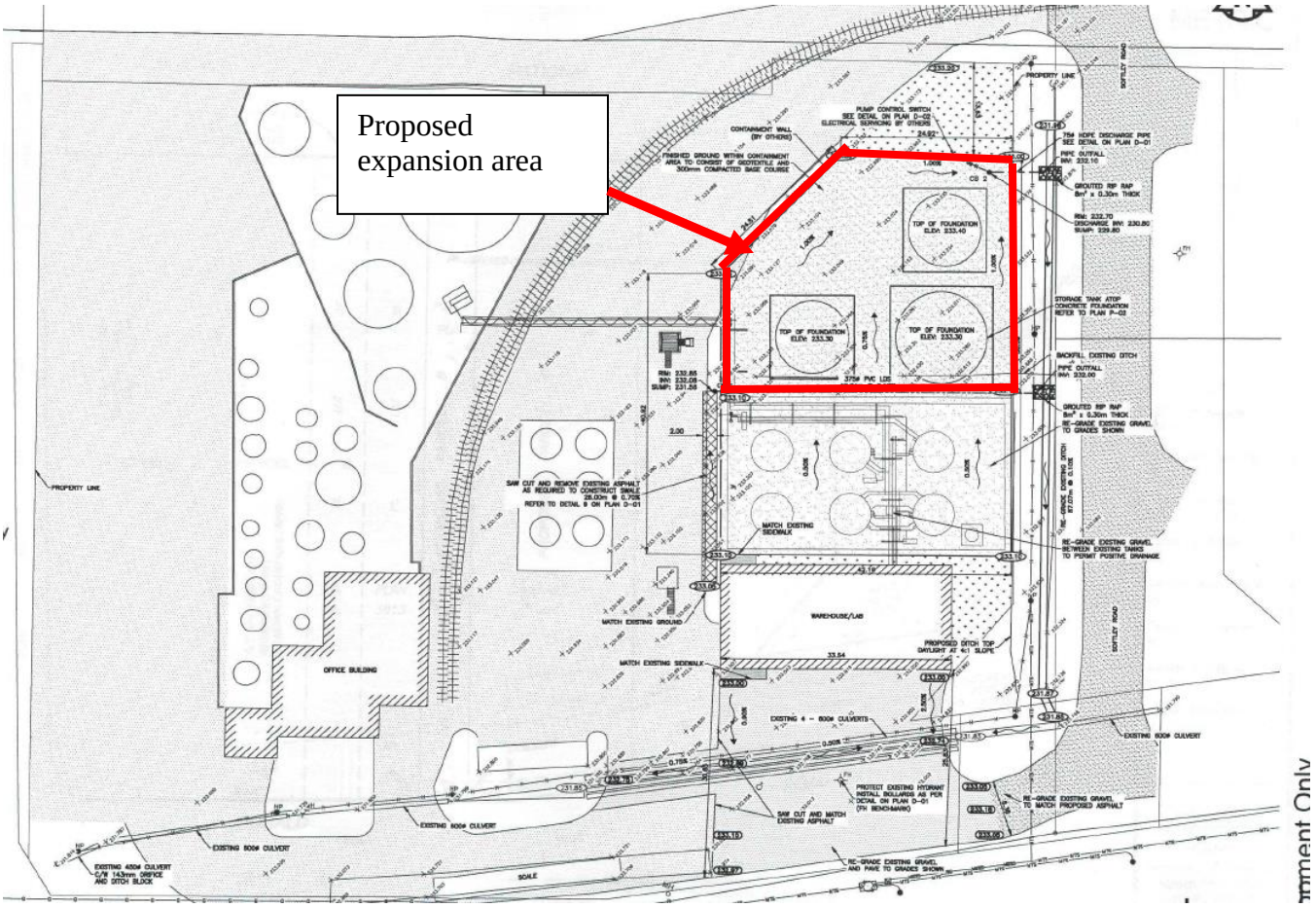



**Figure 3: Subject site showing the proposed expansion**

RECOMMENDED ZONING AGREEMENT

- The Urban Planning Division is recommending that the existing zoning agreement placed on the subject property in 1988 be deleted, given that some of the requirements are no longer relevant to the subject site.
- However, the Department is recommending new agreement requiring fencing in order to ensure proper screening of the facility from adjacent uses and the rights of ways.

LAND DEDICATION

- When a developer rezones and/or subdivides a parcel of land, they are required to put in an application with the City of Winnipeg.
- As a condition of rezoning or subdivision, a developer is required to contribute a portion of the land to be developed to the City for parks purposes.
- The amount of land is not less than 10%.
- For this application, ‘cash in lieu’ is recommended as determined by the Planning, Property and Development Department.

**RECOMMENDATION**

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

- The subdivision by consolidation of the subject into one industrial lot and the rezoning of the "M2" Manufacturing General portion to "M3" Manufacturing Heavy for the expansion of the existing asphalt processing plant aligns with the policies in the *Complete Communities Direction Strategy.*
- The proposed rezoning allows the proposed expansion and continual operation of the facility in compliance with the Zoning By-Law.

This Report Submitted by:
Planning, Property and Development Department
Urban Planning Division
Report Prepared By: Femi Ojo, MCIP, RPP
PPD File # DASZ 24/2020

**Schedule "A" for File No. DASZ 24/2020, East Kildonan-Transcona Community Committee, dated November 6, 2020.**

By–Law No. _____

File No. **DASZ 24/2020**

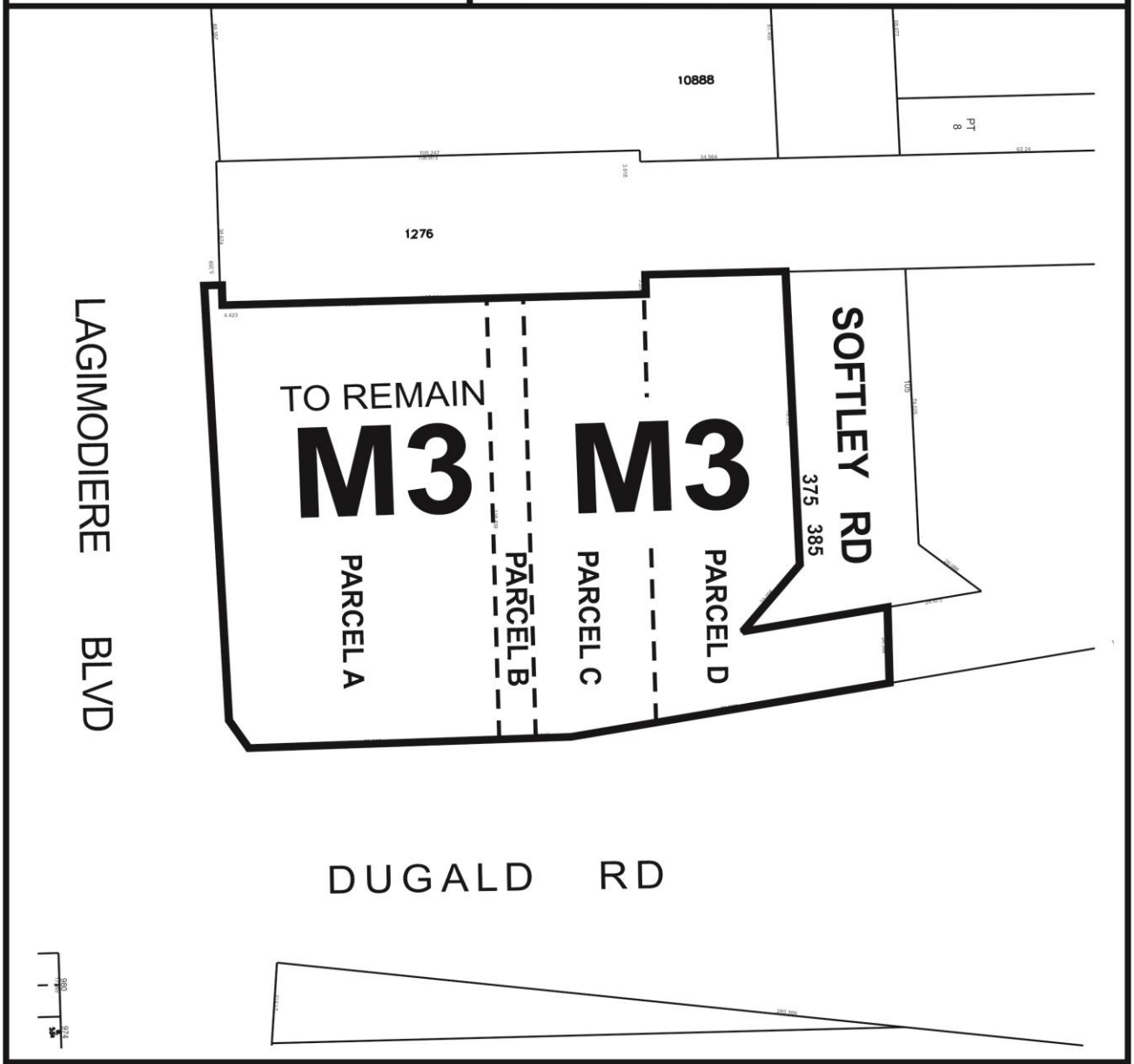
Atlas Sheet No. **AA30**

N

**EAST KILDONAN TRANSCONA COMMUNITY**

Explanation

**An application for the approval of the plan of survey shown outlined below and for a proposed zoning change to By-law No. 200/2006 by rezoning the land located at 375 and 385 Softley Road from an "M2" MANUFACTURING GENERAL DISTRICT to an "M3" MANUFACTURING HEAVY DISTRICT to facilitate the consolidation of land for the expansion of the Asphalt Plant (Heavy Manufacturing Use).**




THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____

Exhibit “8” referred to in File DASZ 24/2020

