


<b>TITLE:</b> <b>BY-LAW NO. 7341 TO REZONE</b> <b>PROPERTY LOCATED AT 4501 PATRICIA AVENUE EAST</b> <b>(LOT 4, BLOCK 2, PLAN 2147 BLTO)</b> <b>OWNER: VIONELL HOLDINGS</b> <b>APPLICANTS: STEVE McMILLAN &amp; JEFF HOGG</b>		
<b>MEETING DATE:</b> September 21, 2022		<b>Page 1 of 6</b>
<b>DEPARTMENT:</b> Planning & Buildings	<b>ATTACHMENTS:</b> A. By-law No. 7341 B. Application related documents C. Map, air photo & drawings D. Development Review Group Report E. Letters from the Public	
<b>PRESENTER:</b> Justin Quigley, Community Planner	<b>MANAGER:</b> Ryan Nickel, Director of Planning & Buildings	

**RECOMMENDATIONS:**

***Rezoning***

That the Planning Commission recommend City Council approve By-law No. 7341 (Z-05-22) to rezone a portion of 4501 Patricia Avenue East from Development Reserve (DR) and Open Space (OS) to Industrial Heavy (IH) in accordance with the attached letter of intent “Attachment B-1” and site plan “Attachment C-3”, subject to the owner or successor entering into a development agreement with the City of Brandon with the following conditions:

1. The Developer agrees to develop the portion of the site to be zoned Industrial Heavy in general consistency with the attached site plan.
2. The Developer agrees to contribute \$25,668.46 towards transportation improvements as per the East Brandon Industrial Area Secondary Plan Traffic Impact Study, Appendix C. Such contribution is calculated by applying the Area 9 per hectare charge (2022 rates) to the proposed 26 acres being rezoned to Industrial Heavy. This contribution is due in full upon execution of the development agreement.
3. The Developer agrees to provide stormwater storage for a 100 year post-development event controlling the discharge to that of a 5 year pre-development event. The Developer will be required to submit a design report and drawings prepared by a professional engineer with such design being subject to review and acceptance by the City Engineer.
4. The Developer agrees to close and restore the existing access on 49<sup>th</sup> Street East currently located in the northeast corner of the site. The Developer further agrees to design and construct a new access on 49<sup>th</sup> Street East south of the current access. Closure of the existing access and construction of the new access shall be as per the City of Brandon

Standard Construction Specifications with the design subject to review and acceptance by the City Engineer.

5. The Developer further agrees that access will not be granted along Patricia Avenue East due to its designation as a “No Truck Route” between 17<sup>th</sup> Street East and 65<sup>th</sup> Street East.
6. The Developer agrees to confirm by way of a Traffic Impact Statement that the trips generated for this use commensurate to the assumed trips for the East Brandon Industrial Area Secondary Plan Traffic Impact Study. This statement must be completed by a qualified traffic engineer and modelled using Area 9 assumed peak hour trip generations as per the East Brandon Industrial Area Secondary Plan Traffic Impact Study.
7. The Developer agrees to provide evidence of receipt of a License to Construct Water Control Works with Manitoba Conservation and Water Stewardship prior to issuance of a development permit.
8. The Developer agrees two plant species listed as endangered under the Manitoba Endangered Species and Ecosystems Act have been identified in the right-of-way immediately south of the site. The Developer further agrees to provide written confirmation from the Department of Natural Resources and Northern Development that all concerns surrounding development of site relating to the identified species-at-risk on the property have been addressed to the satisfaction of the Province prior to the issuance of a development permit.

And that Administration be authorized to prepare said Development Agreement containing all conditions and requirements to protect the City’s interests in accordance with any procedures, policies, by-laws, and Acts.

**BACKGROUND:*****Request***

The applicants, Steve McMillan and Jeff Hogg, on behalf of the property owner, Vionell Holdings, are applying to rezone a portion of the property located at 4501 Patricia Avenue East from Development Reserve (DR) and Open Space (OS) to Industrial Heavy (IH). Approval of this application will allow for the relocation of Full Tilt Towing's facilities, which will include vehicle towing services and vehicle storage.

***Development Context***

The subject site is currently undeveloped and located north of Patricia Avenue East, west of 49<sup>th</sup> Street North, and southeast of PTH 110 (East Brandon Access). The presence of small white lady's slippers has been observed on the site but are outside of the portion of the site proposed for rezoning. Uses surrounding the site include unserviced general and heavy industrial uses. Though the site fronts three different streets, only 49<sup>th</sup> Street East provides access to the site.

***History***

City Council approved a conditional use application in 2000 for a sand, clay, and gravel mining operations. A development agreement was signed as part of the conditional use approval, stipulating limitations in future mining operations. In accordance with the attached letter of intent "Attachment B-1", the applicant notes that this operation yielded low quality results and that, at this time, there are no future mining operations on site. The site has remained otherwise undeveloped and used for minor agricultural purposes.

**ANALYSIS:*****Rezoning***

Approval of this application will allow for a vehicle towing facility that will include vehicle storage.

**Consistency with the Development Plan**

- 1.6.2(h): The proposed rezoning supports the relocation of a service in a more appropriate location within the City
  - The current location of the service is less compatible with surrounding uses, especially in light of recently approved residential developments pursuant to the North Brandon Gateway Secondary Plan
- 4.1(a): The proposed rezoning will provide an industrial use within the industrial area, promoting a diversity of industrial development in the area
- 4.1.5: The proposed relocation of Full Tilt Towing to a part of this site ensures that this industrial use is sited appropriately within the city
- Map 1: Area designated Industrial and, along the streets, Parks/Open Space

- The site is located within the East Brandon Industrial Area Secondary Plan, which designates this area as a Partial Service Area with no open space buffer along the streets
- Policy 1.8 of the Secondary Plan allows the City to supersede policies of the Development Plan if more detailed policies exist in the Secondary Plan

Consistency with the East Brandon Industrial Area Secondary Plan

- 2.0 – Goal 1: The proposed rezoning will allow for the relocation of an incompatible industrial use to the East Brandon Industrial Area
- 3.3.1: The proposed rezoning is to be sited in the Partial Service Area, which is intended to be used for heavy industrial uses that do not immediately require services
- 4.1.4: Site proposed along access connecting to Richmond Avenue East, a designated heavy truck route
- 5.2.1: The proposed recommendations as part of approval will ensure stormwater is addressed on-site and cannot exceed pre-development runoff conditions
- 6.4.1: The applicant completed an impact assessment noting that there are identified species-at-risk on the site
  - Noted occurrences of the species-at-risk on the site are not to be impacted by the proposed rezoning application, which will only affect the southwest parcel
  - Some areas near or within the have been identified as an environment for a suitable habitat for the species-at-risk
  - The Province has requested the applicant work with the Department of Natural Resources and Northern Development prior to development to ensure the impact to these areas are minimized in order to encourage the future growth of the species-at-risk
  - This request has been included as part of the recommended conditions for approval as outlined in the “Recommendations” section in this report

Consistency with the Zoning By-law

- The site is currently zoned DR and OS, and requires rezoning to IH to allow for the proposed towing facility
- The proposed development meets the bulk and siting requirements under Table 16, Section 62 of the Zoning By-law.

***Commenting Agencies***

All comments have been addressed and summarized below.

***City of Brandon***

The City of Brandon advises that a development agreement is required, with conditions identified in the “Recommendations” section and “Attachment D” in this report. Key conditions include:

- Developer is to provide stormwater storage for a 100-year post-development event and control discharge to that of a 5-year pre-development event
- Developer is to close and restore the existing access along the northeast corner of the site to the property. Access shall not be allowed along Patricia Avenue East due to its designation as a no truck route
- Developer to provide a traffic impact statement that confirms the proposed development does not exceed the assumed trips as outlined in the East Brandon Industrial Area Secondary Plan Traffic Impact Study
- Developer to obtain a valid Water Rights License for any alterations to on-site surface water prior to the issuance of a development permit
- Developer to work with Department of Natural Resources to ensure development does not adversely impact identified species-at-risk located on the site and in the surrounding area. Developer shall be required to confirm in writing that the Department is satisfied with the proposed development prior to the issuance of a development permit

***Manitoba Natural Resources and Northern Development***

- The Province advises that the species-at-risk noted on the site, but not within the portion proposed for rezoning, must be protected in future development of the site
  - Future proposals to amend the zoning for the remainder of the site will be required to consider the ecological limitations surrounding this species and ensure there are no contraventions of prohibitions outlined in Section 10(1) of the Act
- The Manitoba Department of Natural Resources and Northern Development recommends that a plan be drafted by the developer for the ongoing monitoring of the site with the goal being to protect the occurrences and habitat development of the species-at-risk

***Manitoba Transportation and Infrastructure***

- Prior to any future applications to rezone the remainder of the site the Province will require that a conceptual plan be prepared for the site identifying possible future development and internal road network.

**LEGISLATIVE REQUIREMENTS:**

***Notification***

In accordance with Section 168 of The Planning Act, notice of the public hearing was sent to owners of property within 100 metres (328 feet) of the subject property. Notice was also posted on the subject property and advertised in the Brandon Sun on August 18, 2022 and September 15, 2022.

***Public Outreach***

In accordance with Section 13 of the Zoning By-law, public outreach is not required for a zoning map amendment to this by-law within an approved Secondary Plan. At the time of writing this report, one letter of opposition has been submitted as detailed in "Attachment E-1". Reasons for the objection include concerns about the development reducing local wildlife in the area, lights from the development creating a nuisance for their property, and drainage from the new development creating increased runoff that will impact their property.