To His Worship the Mayor and the Councilors on the Standing Committee on Planning and Development

May I please be allowed to present in person at the next meeting of this committee?

I would like to discuss the IL2 zoning and specific issues I have around how it is negatively effecting developers who try to work within it.

Background:

My client has an existing contracting tenant that wished to consolidate their operations in a larger sole purposed structure in a preferred location that suits their business goals. Currently they have a materials testing facility in Lanigan and then finer work from this is transported to the Saskatoon operations location in one my client's buildings.

They bring in samples, they process samples, they store and catalogue samples, and they write reports and create physical maps, specifications, and technical drawings which they output back to the client.

As well this Saskatoon office does EPCM (Engineering, Procurement, and Construction Management) work. Within this there is a survey group which is constantly deploying to sites to measure and quantify sites for the construction group work and the materials testing group.

Again, this group has their own equipment, field vehicles and support staff. In any context, this work would be considered contracting. You could also consider some of this as general contracting if that were a requirement (which it is not).

There are a small group of administration staff (non construction related accounting, HR, IT, and reception). This group would be considered accessory to the main uses as their role is to directly support the construction services and materials testing groups.

My client looked for a suitable site that was deemed perfect for the tenant. Zoning was checked to ensure this was a feasible fit. Within the fully permitted use section, there were listings for Materials Testing Facility, Contractors offices shops and yards, and Accessory uses. There was no caveat on the contractors offices specifically. There are no proper definitions listed in this zoning document, but general dictionary listings show that a facility is deemed to house all activities related to one process or task. Regardless of how this is exactly interpreted, in any case, the materials testing group are construction contractors and should easily be fully accounted for on their own or within the contracting use listing. This testing causes no issues or harm from their work.

I realize that council has directly approved an amendment to purposely add the contractors listing to approved uses so that clearly showed the intent and willing direction of that action.

At the very bottom of the permitted uses, there are a few uses that have caveats applied. One of the uses is Office and Office Buildings. This is separate from the contractors office listing and it implies that if you don't directly meet any previous unrestricted use in the zone, that a general office or office use can still be accommodated with some limitation.

This also lists a setback and coverage which implies you can build an office structure that falls within those limitations and the limitations of caveat 6. But, the City demands that all office uses in this zoning must be subordinate to a Permitted Use, even though it itself is a Permitted Use and no wording is included to state otherwise.

The caveat 6 reads that if you don't meet the criteria for the previous unrestricted uses for materials testing facility, contractors offices, or accessory use, then you can build an office of 325 sq m. for some generic office use or have up to 325 sq m of office space for each office use that is permitted. I would think that might mean as an Accessory Use to another Permitted Use but that is not properly defined either way. Even though the fully unrestricted Permitted Uses list shows 'facility' and 'office' and 'accessory' without a caveat, the City contends that all these are restricted by the Office and Office Buildings listing and further by the caveat 6.

If technical staff are bringing in, testing, and processing anything within the space, this contravenes the City's own definition of what an office use is considered. Therefore this would have to be fairly considered a rigid part of the contracting or materials testing group not considered as an office use.

The City planning establishment will not accept the wording of their own zoning. They directly deflect or avoid directly mentioning how they have presented this legally and instead wish to enforce their own wishes over this area without preapproved direct controls in place.

We have been told "how could you ever think that you could build such a structure for this type of client in this area?" Further, we have been repeated told that while the City agrees that our client does materials testing and contracting, they don't do the materials testing and contracting that they want. When I ask them to specify what an acceptable operation for either would look like, they refuse to respond. So in other words, they wrote they wanted these uses and now they claim they don't want these exact uses but they still won't specify what the ideal use would look like.

Do you see any way that this is fair to the general public or developers? What is the most frustrating is when a very senior manager stated repeatedly that if my developer just made a simple phone call first, that this would have saved him money and prevented this issue between us now. In what world would the City legally back the information given over the phone like this if it leads to a multimillion dollar land purchase? What recourse would a developer have if the advice was not given properly by the City?

If I called up City zoning (which wasn't possible in the moment this purchase deal was happening after hours), I would have said "I represent a developer. We have a field services firm that wants a proposed new operations location on Arthur Rose Avenue. This use would be for materials testing and construction service support (contracting). They would fit into the building size allowed, and their practices would not create harm to anyone around them as noted in the zoning". In what world would any planning person taking this call say anything but, "your uses are listed in the permitted uses for the site and these have no restrictions except for building footprint."?

Then this land would still have been purchased. Perhaps a shell would have been given to the City for a development permit and then an amended floor plan with tenant improvements would have been filed after construction was fully underway. Finally the client would apply for a business license for the site. So your current system might have flagged an improper use at three stages: The development permit, the amended permit, and the user business license for the site and use. The only good thing about this mess is that it happened now and not during committed construction or later when the innocent client tries to get a business license to operate there.

The City no longer does preliminary development permits. In fact, they don't do a separate development permit any longer. So they want the developer to do up an entire development package for a site which includes engineering and architectural drawings for construction. Then planning will decide if the building and use are approvable under the current zoning. This is a serious hindrance to developers.

The original amendment to the zoning shows that is wants to restrict office use in IL2 and IL3. But then it adds contractors offices specifically to the zoning? It actually says you wanted to add this to IL3 only at the time, but it appears you added it to the IL2 without further mention.

Planning contends that contractors office is restricted by the office and office building listed below on the same table. And that it is not its own entity in the list. In IL3, both are again listed (in a different order with office and office building above contractors office) but there is no caveat on either of these there.

If office and office building with its caveat is the limiting factor in IL2, then why did you need to amend the zoning to add the contractors office statement it in the first place? There is no requirement for this in any plausible case since office and office building cover everything according to planning.

How much of a building is defined as common use within the approved uses (washrooms, lunch room, and reception) in the least should be considered common for all uses on site. A shop can have a washroom. So is that washroom part of an office then?

Planning has thrown out a further host of special ways they decide things. The 75/25 rule which they apply to uses to ensure the primary use is primary. In the contractors offices, shops and yards, they are adamant that the shops have to be 75% or larger than the office

space attached to it no matter what the allowable office area is considered to be. Then the overall manager directly quoted that when he did this work he liked to apply an 80/20 factor on this.

Problem is, they do not post this calculation or requirement, nor do they indicate in zoning that any part of any particular use is further subdivided. So whether you build a contractor office alone with a yard, or a contractor shop with a yard, or just a contractor office without a fenced yard or enclosed shop, these things are not regulated as the City staff enforce their personal view instead of posted policy.

With so much indecision and no accountability, it is greatly unfair to my client and any other entity trying to deal with the City on things like this. Planning staff ignore straight forward requests to the wording that the City themselves purposely chose and made legal.

You can't take a fight to the Development Appeals board unless you have been rejected first. You can't get formally rejected now unless you also submit a full set of engineering and architectural plans since your permit application must include all construction documents needed for building permit at the same time.

The City is using this lack of accountability to continue to circumvent its own zoning policies at will without recourse. Weeks of attempts to get this looked at and responded to by the city solicitor have gone on deaf ears as well until last night. I heard now that the solicitor might be looking at this finally.

In any case, you are my last reasonable chance to get things changed into a properly functioning system that we can reasonably operate within.

If you are unable to do this, then I will take this to the Director of Community Planning and my client will look further into direct legal action against the City.

I hope to present and defend this in person at your next meeting on 5 Sept 2017.

Respectfully,

Cary

Cary Tarasoff

IL2 - Limited Intensity Light Industrial District

Purpose

The purpose of the IL2 District is to facilitate economic development through certain light industrial activities and related businesses that do not create land use conflicts or nuisance conditions during the normal course of operations, as well as to limit activities oriented to public assembly.

Permitted Uses

The Permitted Uses and Minimum Development Standards in an IL2 District are set out in the following chart with the following considerations: The total office use for a site is 325 m2 and this use must be subordinate to a Permitted Use that it directly supports. The office use must not exceed 25% of the total building area. Stand alone office buildings are not permitted.

IL2 District	Minimum Development Standards (in Metres)							
	Site Width	Site Depth	Site Area	Front Yard	Side Yard	Rear Yard	Building Height (Max.)	Site Coverage (Max.)
11.2.2 Permitted Uses								
(1) Manufacturing, fabricating, processing, assembly, finishing, production or packaging of materials, goods or products excepting those specifically prohibited by Section 11.2.3	15	60	0.4	6	3 [3]	3 [4]	23	60%
(2) Warehouses, shipping and express facilities	15	60	0.4	6	3 [3]	3 [4]	23	60%
(3) Public garages	15	60	0.4	6	3 [3]	3 [4]	23	60%
(4) Bulk mail sorting	15	60	0.4	6	3 [3]	3 [4]	23	60%
(5) Industrial equipment and industrial vehicles sales, service and rentals	15	60	0.4	6	3 [3]	3 [4]	23	60%
(6) Materials-testing workshops and yards	15	60	0.4	6	3 [3]	3 [4]	23	60%
(7) Contractor workshops and yards	15	60	0.4	6	3 [3]	3 [4]	23	60%
(8) Farm implement sales and service	15	60	0.4	6	3 [3]	3 [4]	23	60%
(9) Wholesaling establishments	15	60	0.4	6	3 [3]	3 [4]	23	60%
(10) Adult mini-theatres [1]	15	60	0.4	6	3 [3]	3 [4]	23	60%
(11) Accessory buildings and uses [2]	15	60	0.4	6	3 [3]	3 [4]	23	60%
(12) Industrial complexes	15	60	0.4	6	3 [3]	3 [4]	23	60%
(13) Ambulance stations [5]	15	60	0.4	6	3 [3]	3 [4]	23	60%
(14) "removed"								

(Revised – Bylaw No. 9302 – August 20, 2015)
(Revised – Bylaw No. 9371 – May 24, 2016)

Notes to Development Standards

1 Adult mini-theatres are permitted provided that they are located only on a site with a minimum radial separation distance of 150 metres or more from the property line of any site in a Residential District, any site with an existing public or private school, any site with an existing place of worship, any site with an existing child care centre, any public park or other use which may have a playground as an ancillary element, and any site with another existing adult mini-theatre.

2 Accessory buildings shall be permitted only in the side or rear yard of any site.

3 A side yard shall be provided of not less than 3 metres, unless the IL2 District abuts an R, M or B District without the intervention of a street or lane, in which case the side yard shall be not less than 6 metres.

4 A rear yard shall be provided of not less than 3 metres, unless the IL2 District abuts an R, M or B District without the intervention of a street or lane, in which case the rear yard shall not be less than 6 metres.

5 Sleeping quarters in conjunction with an ambulance station are prohibited.

6 "removed"

(Revised – Bylaw No. 9302 – August 20, 2015)
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Office and Office Use

"a clearer definition as to limit working spaces that occur in cubicles, at desks, or in offices that process and store commodities of the trade."

Materials testing workshop

"a clearer definition as to limit working spaces that occur in cubicles, at desks, or in offices that process and store commodities of the trade."

Contractor

"a clear definition as to what this means to the City."

There should not be any reference to Office and Office building in the Permitted Use section of the zoning. You can not say that Office Use is limited and must always be subordinate, but then give a distinct Permitted Use statement with setbacks and coverage implying a stand alone structure. If am allowed to build a stand alone office structure of up to 325 m2 then this is always the case. If I add a warehouse or shop for this or another task, then neither is subordinate to each other. You could just say that a max. of 325 sq m of office space is permitted on a site and leave it at that. Whether it is stand alone, subordinate or even dominant, it really makes no difference and this would be clear to all that read it then.