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**CITY OF KELOWNA**  
**MEMORANDUM**

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**Date:** January 17, 2001  
**File No.:** (3360-20) **Z00-1062**

**To:** City Manager

**From:** Planning & Development Services Department

**Subject:**

APPLICATION NO. Z00-1062                      OWNER: JOSEPH ALLAN ROBERT MARSHALL

AT: 9590 McARTHUR ROAD                      APPLICANT: AS ABOVE

PURPOSE: TO REZONE SUBJECT PROPERTY TO PERMIT THE DISMANTLING OF VEHICLES ON THE PROPERTY

EXISTING ZONE: I2 – GENERAL INDUSTRIAL

PROPOSED ZONE: I3 – HEAVY INDUSTRIAL

REPORT PREPARED BY: PAUL McVEY

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**SEE ATTACHED FACT SHEET FOR COMPLETE APPLICATION DETAILS**

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**1.0    RECOMMENDATION**

THAT Rezoning Application No. Z00-1062, Lot 3, Sec. 11, Twp. 20, O.D.Y.D., Plan 3997, located on McCarthy Road, Kelowna, B.C., to amend the zoning classification from the I2 – General Industrial zone to the I3 – Heavy Industrial zone not be approved by the Municipal Council.

**2.0    SUMMARY**

The applicant wishes to rezone the subject property from the existing zone of I2 – General Industrial zone to the I3 – Heavy Industrial zone, in order to dismantle vehicles on the property, a use defined in Zoning Bylaw 8000 as “Wrecking Yard”, and permitted in the I3 – Heavy Industrial zone.

As the applicant has been unwilling to agree to the servicing issues identified by the Works and Utilities Department, specifically the connection to community water, payment of the associated latecomer fee, and road dedication, the Planning and Development Services Department cannot forward this report to Council for consideration with a positive recommendation.

## 2.1 Advisory Planning Commission

The above-noted application was reviewed by the Advisory Planning Commission at the meeting of October 29, 1996 and the following recommendations were passed:

THAT the Advisory Planning Commission supports Rezoning Application No. Z96-1041 by Al Marshall – 9590 McCarthy Road, subject to:

1. Parking and loading are be paved,
2. The parking area along McCarthy road to be removed,
3. The subject site be enclosed by a screened fence

Note; The site has been fenced, and the parking area along McCarthy Road has been removed.

## 3.0 BACKGROUND

### 3.1 The Proposal

The subject property has been used as an outdoor storage yard for vehicles, and has had a business license issued for “automotive storage and recycler, not dismantling”.

The subject property has been the subject of several applications to rezone to an appropriate zone to permit the dismantling of vehicles, a use that falls under the definition of “wrecking yard”. The most recent application (Z96-1041) which had been made in September 1996 sought to rezone the property from the I-1 Warehousing and Light Industrial zone to the C-13 Wrecking Yard zone (under zoning bylaw 4500) in order to legally permit the dismantling of vehicles on the property. This application had proceeded to Advisory Planning Commission for comment, but did not proceed to Council for consideration, as the applicant could not reach agreement on the required site service improvements as identified by the City of Kelowna Works and Utilities Department, most specifically, the identified late-comer charge associated with the water line fronting the property.

The applicant contends that they have no need of a water connection, as they have a well which is adequate for their needs, and they utilize a water recycling system to reduce their use of water further. However, both the current Subdivision Development and Servicing Bylaw No. 7900 and the previous Subdivision Bylaw No. 6050 require connection to a community water supply as part of the rezoning process to rezone the property to an appropriate zone to permit an auto wrecking use on site.

This current application is made to change the zone of the subject property from the existing zone of I2 – General Industrial to I3 – Heavy Industrial, in order to permit the dismantling of vehicles on the property. There are a number of adjacent properties that are zoned I3 – Heavy Industrial in the neighbourhood. The land use under application is considered supportable from a land use perspective, and is consistent with the Industrial future land use designation of the Official Community Plan. With the adoption of both the Subdivision, Development and Servicing Bylaw 7900 and the Zoning Bylaw 8000, the applicant now has the option of having the application for rezoning presented to City Council, prior to the servicing issues having been agreed to and bonded for. It is on this basis that the applicant wishes to proceed with this application to Council.

The subject property has been developed with a single family residence, which is anticipated to be used as a watchman’s residence. There is also an existing (2,400 SF)

office and shop building located on the site. The site has been licensed for the storage of automobiles and the sale of used parts, but not for dismantling of vehicles on site.

The area is not designated as a mandatory Development Permit area as the subject property is not on the Highway, nor is it located within an Urban Town Centre. Therefore, it is not necessary for Council to consider a Development Permit in conjunction with their consideration of the zone amending bylaw.

As the applicant has not been willing to come to an agreement with the servicing requirements as identified by the Works and Utilities Department, the Planning and Development Services Department in unable to forward this application to Council with a recommendation for support.

However, should Council support this application, alternate recommendations are provided for Council's consideration.

The proposal as compared to the I3 zone requirements is as follows:

CRITERIA	PROPOSAL	I3 ZONE REQUIREMENTS
Site Area (m <sup>2</sup> )	8,094 m	8,000 m <sup>2</sup> min. 1 Ha without sewer connection
Site Width (m)	43.86 m	40.0 m min.
Site Coverage (%)	4%	75% max
Total Floor Area (m <sup>2</sup> )	310 m	Max 6,070 m <sup>2</sup> @ FAR = 0.75
F.A.R.	0.04	Max FAR = 0.75
Storeys (#)	1 storey	18.0 m max
Setbacks (m)		
- Front	15.2 m	10.0m min.
- Rear	149 m	7.5 m min.
- North Side	12.2 m	7.5 m min.
- South Side	10.7 m	7.5 m min.
Parking Stalls (#)	3 stalls required	2.0 stalls per 100 m <sup>2</sup> GFA
Loading Stalls (#)	1 stall required	1 stall per 1,900 m <sup>2</sup> GFA

**NOTE:**

Variance to the Subdivision, Development and Servicing Bylaw No. 7900, Schedule 1 table of Works and Services Requirements necessary for the requirement of a water connection for the I3 – Heavy Industrial zone, and dedication of the required road widening. The applicant has been advised that both the Works and Utilities Department and the Planning and Development Services Department do not support this variance.

### 3.2 Site Context

The subject property is located in the northern end of the City of Kelowna, adjacent to the municipality of Lake Country. The neighbourhood has been developed with a number of industrial uses. The subject property has also been to site of a number of applications to rezone to permit the use of the site as an auto wrecking facility dating back to the early 1980's.

## SITE LOCATION MAP



Adjacent zones and uses are, to the:

- North - I2 – General Industrial / industrial uses (Gwil Industries – equip. Rental)
- East - I3 – Heavy Industrial / McCarthy Road , industrial uses (Newalta oil recycling facility)
- South - I2 – General Industrial / industrial uses (Abeda wood products)  
I3 – Heavy Industrial / industrial uses (Applevalley Auto Wreckers)  
A1 – Agricultural 1 / single Family Residential uses
- West - I2 – General Industrial / Railway right of way, industrial uses

### 3.3 Existing Development Potential

The existing zoning of I2 – General Industrial allows for; auctioneering establishments, automotive and equipment repair shops, automotive and minor recreational vehicle sales/rentals, bulk fuel depots, commercial storage, contractor services – general and limited, convenience vehicle rentals, custom indoor manufacturing, eating and drinking establishments – minor, equipment rentals, fleet services, gas bars, general industrial uses, household repair services, outdoor storage, participant recreation services – indoor, rapid drive-through vehicle services, recycling depots, recycled materials drop-off centres, service stations – minor and major, truck and mobile home sales/rentals, utility services – minor impact, vehicle and equipment services – industrial, and warehouse sales as principal permitted uses, and residential security/operator unit and care centres – major as permitted secondary uses.

### 3.4 Current Development Policy

#### 3.4.1 Kelowna Official Community Plan

This proposal is consistent with the "Industrial" designation of the Official Community Plan.

#### 3.4.2 City of Kelowna Strategic Plan (1992)

"The City will, in its plans and policies concerning future urban development, place an emphasis on more efficiently using serviced land within existing urban areas through infill and will provide for an increased density of development within established urban areas through re-development of areas which are in transition. Urban areas which are targeted include the Central City area with emphasis on the waterfront and north end, Rutland, and South Pandosy particularly along major traffic arteries and near the town centres, the Glenmore Valley and Highway 97 corridor."

### 4.0 TECHNICAL COMMENTS

Application Z96-1041 had been circulated to various technical agencies and City departments and the following relevant comments have been submitted:

#### 4.1 Environmental Manager

Automotive recycling usage has potential for contamination. When the usage changes, a site assessment will be necessary prior to consideration of other uses or a subdivision.

Note: Application Z96-1041 was made prior to the requirements for a Site Profile as part of the application. A new Site Profile will be required prior to Council's consideration the zone amending bylaw, should Council support this application.

#### 4.2 Fire Department

This department has no objection to this application.

Note: As a result of the construction of the water line on McCarthy Road by GWIL Industries, a new fire hydrant was installed adjacent to the subject property.

4.3 Ministry of Transportation and Highways (Kelowna)

The Ministry has no objection to the proposed rezoning application.

4.4 Public Health Inspector

This rezoning application is to convert the existing zone of I2 – General Industrial to I3 – Heavy Industrial in order that the existing land use conform to permitted uses of the required zone.

On site sewage disposal should not be critical to the existing use. A previous inspection by G. Hertzog on July 21, 1994, indicated no signs of septic system malfunction.

The owner should be aware that not all uses permitted in the zone may be accommodated by the existing septic system. Also, any repairs or expansion of the septic system would have to comply with the Environmental Control area standard under the Sewage Disposal Regulation.

4.5 Works and Utilities Department

The Works & Utilities Department comments and requirements regarding this application to rezone from I2 – General Commercial to the I3 – Heavy Industrial is as follows:

1. Subdivision Domestic Water and Fire Protection

As a priority item by registered plan(s) in order to:

- (a) Provide 2.44 m road widening along the McCarthy Road frontage to establish a 17.68 m total Right-of-Way width, with the balance of a 20 m Right-of-Way to be acquired from the east side of the road.
- (b) Provide Rights-of-Way as may be required for utility purposes.

2. Sanitary Sewer

The existing septic system must be located and inspected by the Public health officer, and any upgrading must be done prior to final adoption of the rezoning bylaw.

If the applicant is only rezoning the site, and no construction is to occur subsequent to rezoning, the existing system may be acceptable. This must be confirmed with the Public Health Officer.

Should the applicant redevelop the site subsequent to the rezoning, this will require a building permit application, at which time a new septic disposal system will be required. This can be dealt with at the time of the building permit application.

3. Domestic Water and Fire Protection

The property is located within the boundaries of what was the former Winfield & Okanagan Centre Irrigation District (WOCID). The applicant is required to make

application to WOCID (Lake County) for a water connection. All charges for the service connection and regrade fees are to be paid directly to WOCID (Lake County). This property is subject to a latecomer charge, for the watermain extension, which is payable at the time of application.

4. Drainage

On-site drainage is to be contained and disposed of on site.

5. Road Improvements

None required. The road is improved to a lesser standard than dictated by the I3 zone. However, the applicant should not be burdened with any upgrading unless development plans, that will alter the road use, are contemplated for the site.

6. Power and Telecommunication Services

The services to this development are to be installed underground. It is the developer's responsibility to make a servicing application to the respective utility companies. The utility companies are then required to obtain the City's approval before commencing their works.

7. Street Lighting

Street lighting to the satisfaction of the Manager of Electrical Utilities.

8. Development Cost Charge Consideration

The applicant will be liable for DCC charges at the time of application for a building permit.

9. Latecomer Charges

A latecomer charge will be payable at the time of application for a water connection. The actual charge will be determined by the City at the time of application for the water service.

10. Bonding and Levy Summary

- |     |                |                |
|-----|----------------|----------------|
| (a) | <u>Bonding</u> | Not applicable |
| (b) | <u>Levies</u>  | Not applicable |

Note: The above requirements are based on a reduced (rural) standard for road construction. However, the W & U Department have also determined that a road widening is also necessary to increase the existing road right of way width up to minimum required right of way width of 20 m in order to meet City standards. The rezoning of the adjacent lot to the north of the subject property triggered similar requirements, and that applicant paid the latecomer charge and dedicated the road widening.





## 5.0 PLANNING AND DEVELOPMENT SERVICES DEPARTMENT COMMENTS

The subject property has been the subject of several applications for rezoning over the years. There is information of file regarding the use of the property for the dismantling of wrecked vehicles, a use which was not permitted in the I-1 Light Industrial and Warehousing zone under Zoning Bylaw 4500, nor the current zone of I2-General Industrial under Zoning Bylaw 8000. In 1984, there had been an application to rezone the subject property to the C-13 Wrecking Yard zone under Zoning Bylaw 4500, however, City Council of the day defeated the application.

The Planning and Development Services Department acknowledges that the subject property is located in an area that has a number of appropriately zoned wrecking yards, and supports the land use for the site. However, there still remains the issue of servicing to the site, and payment of appropriate fees.

In 1996, application Z96-1041 was made to again attempt to rezone the subject property from the then existing zone of I-1 Warehousing and Light Industrial zone to the C-13 Wrecking Yard zone in order to permit the use of the property for an auto dismantling use. This application for both rezoning and an Official Community Plan amendment to change the future land use designation from the existing Industrial future land use designation to the then required Commercial land use designation was supported by the Planning and Development Services Department. The review by the Advisory Planning Commission also supported the application. However, the application never proceeded to Council, as the applicant was not willing to enter into a servicing agreement which addressed the water service connection and payment of latecomer fee associated with the water service.

Application Z96-1041 was held in abeyance, pending a dispute resolution meeting which was held on January 21, 1997. At that meeting the requirements for a water service to the site was maintained, and the applicant was given the option of making the appropriate connection, or making application for a Development Variance Permit to vary the requirements of the Subdivision Bylaw with regards to the requirement of a water connection for a use in the C-13 zone. The applicant was also advised that both the Works and Utilities Department and the Planning and Development Services Department did not support a variance to the servicing requirements of the Subdivision Bylaw. As the applicant was still not willing to provide this water connection or make application for a Development Variance Permit, the application did not proceed to Council for consideration.

In 1998, the City of Kelowna adopted a new Zoning Bylaw 8000. As part of that process, it was necessary to deal with instream applications, in order that they may be adopted or defeated under the then existing Zoning Bylaw 4500. As this rezoning application had been dormant for 2 years, the file was closed and the unused portion of the application fee was returned to the applicant.

Since the time that the Z96-1041 rezoning application file was closed and the fee returned, the applicant has requested that the application be reopened, as he had never cashed the refund cheque, and wishes to present his application to have his day before City Council in order to discuss his rezoning application. The applicant has returned the uncashed cheque and has provided a new cheque to make up the difference in the application fee.

Planning staff have opted to proceed with this application to Council on this basis, in order that the applicant may present his application before Council. The report presented for Council consideration is negative as the applicant has not agreed with the servicing requirements as identified by the City of Kelowna Works and Utilities Department.

6.0 ALTERNATE RECOMMENDATION

Should City Council support this application to rezone the subject property the following recommendations are offered for consideration:

THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 3, Sec. 11, Twp. 20, O.D.Y.D., Plan 3997, located on McCarthy Road, Kelowna, B.C., from the I2 – General Industrial zone to the I3 – Heavy Industrial zone;

AND THAT the zone amending bylaw be forwarded to a Public Hearing for further consideration;

AND THAT final adoption of the zone amending bylaw be considered subsequent to the requirements of the Works & Utilities Department being completed to their satisfaction;

AND FURTHER THAT final adoption of the zone amending bylaw be withheld until the owner has executed a Servicing Agreement acceptable to the City of Kelowna.

If Council were to approve this rezoning without requiring the applicant to pay the latecomer charges the City would be liable for the latecomer charge. Further, the Local Government Act permits outstanding latecomer charges to be collected in the same manner and with the same remedies as property taxes.

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Andrew Bruce  
Current Planning Manager

Approved for inclusion

R.L. (Ron) Mattiussi, ACP, MCIP  
Director of Planning & Development Services

PMc/pmc  
Attach.

**FACT SHEET**

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| <b>1. APPLICATION NO.:</b>   | Z01-1000   |
| <b>2. APPLICATION TYPE:</b>  | Rezoning   |
| <b>3. OWNER/APPLICANT:</b>   | Joseph Allan Robert Marshall   |
| • ADDRESS  | 9590 McCarthy Road   |
| • CITY   | Winfield, BC   |
| • POSTAL CODE  | V0H 2C0  |
| • TELEPHONE/FAX NO.:   | 762-5366   |
| <b>4. APPLICATION PROGRESS:</b>  |  |
| Date of Application:   | September 30, 1996 /<br>November 22, 2000  |
| Date Application Complete:   | December 15, 2000  |
| Servicing Agreement Forwarded to Applicant:  | December 3, 1996   |
| Servicing Agreement Concluded:   | N/A  |
| Staff Report to Council:   | January 11, 2001   |
| <b>6. LEGAL DESCRIPTION:</b>   | Lot 3, Sec. 11, Twp. 20, O.D.Y.D.,<br>Plan 3997                                      |
| <b>7. SITE LOCATION:</b>   | West side of McCarthy Road, North of<br>Beaver Lake Road                             |
| <b>8. CIVIC ADDRESS:</b>   | 9590 McCarthy Road   |
| <b>9. AREA OF SUBJECT PROPERTY:</b>  | 8,094 m <sup>2</sup>   |
| <b>10. AREA OF PROPOSED REZONING:</b>  | 8,094 m <sup>2</sup>   |
| <b>11. EXISTING ZONE CATEGORY:</b>   | I2 – General Industrial  |
| <b>12. PROPOSED ZONE:</b>  | I3 – Heavy Industrial  |
| <b>13. PURPOSE OF THE APPLICATION:</b>   | To Rezone Subject Property To<br>Permit The Use Of The Property For<br>Auto Wrecking |
| <b>14. MIN. OF TRANS./HIGHWAYS FILES NO.:</b><br><b>NOTE: IF LANDS ARE WITHIN 800 m OF A<br/>CONTROLLED ACCESS HIGHWAY</b> | 02-081-16206   |
| <b>15. DEVELOPMENT PERMIT MAP 13.2<br/>IMPLICATIONS</b>  | N/A  |

Attachments that are missing from electronic version of the report;

Subject Property Map

Site plan,

Detail of site plan

Excerpts of Subdivision, Development, & Servicing Bylaw  
( 8 pages)