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**CITY OF KELOWNA**

**MEMORANDUM**

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**Date:** August 26, 2004

**File No.:** Z04-0045

**To:** City Manager

**From:** Planning & Corporate Services Department

**Subject:**

**APPLICATION NO.** Z04-0045

**OWNER:** Okanagan Manufacturer's BC Ltd.

**AT:** 3724 Hwy 97, Kelowna, BC

**APPLICANT:** Protech Consultants Ltd.

**PURPOSE:** TO REZONE THE SUBJECT PROPERTY FROM A1 – AGRICULTURE 1  
TO I2 – GENERAL INDUSTRIAL

**EXISTING ZONE:** A1 – AGRICULTURE 1

**PROPOSED ZONE:** I2 – GENERAL INDUSTRIAL

**REPORT PREPARED BY:** RYAN SMITH

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

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**1.0 RECOMMENDATION**

THAT Rezoning Application No. Z04-0045 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Parcel A (DD118746F & Plan B5762) of Lot 2, Sec 35, Twp 26, ODYD, Plan 2980 Except Plan H8110, located on Hwy. 97, Kelowna, B.C. from the A1-Agriculture 1 zone to the I2-General Industrial zone be considered by Council;

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 following registration of a Road Reservation Agreement (on Section 1 of Appendix "A") in the Land Title Office;

AND THAT final adoption of the zone amending bylaw be considered following registration of a Road Reservation Agreement and "No Disturb" Covenant (on Section 2 of Appendix "A") in the Land Title Office;

AND THAT final adoption of the zone amending bylaw be considered following registration of an Easement (on Section 3 of Appendix "A") in the Land Title Office;

AND THAT final adoption of the zone amending bylaw be considered following the dedication of Section 3 of Appendix "A" (to the specifications of the Ministry of Transportation);

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

AND FURTHER THAT Final Adoption of Zone Amending Bylaw be withheld pending Council's consideration of a development permit on the subject property;

## 2.0 SUMMARY

The applicant is seeking to rezone the subject property at 3724 Hwy 97N from A1 – Agriculture 1 to I2 – General Industrial.

## 3.0 ADVISORY PLANNING COMMISSION

## 4.0 BACKGROUND

There is currently an old Kennel facility located on the subject property. A rezoning application for the property located to the north has been advanced to third reading by Council. Final approval of this rezoning to I2 – General Industrial is contingent upon Council approval of a Development Permit application and the resolution of transportation/environmental related issues on the subject property.

### 4.1 The Proposal

The applicant is seeking to rezone the subject property at 3724 Hwy 97N from A1 – Agriculture 1 to I2 – General Industrial. Council has already advanced a rezoning application (by the same applicant) for the property to the north to third reading. The applicant is seeking to develop the subject property along with its neighbour to the north for an I2 – General Industrial related use. A development permit application will follow when both zoning applications have reached third reading and the applicant has completed all necessary dedications, road reserves and covenants.

The application meets the requirements of the I2 – General Industrial zone as follows:

CRITERIA	PROPOSAL	I2 ZONE REQUIREMENTS
Site Area	7485m <sup>2</sup>	4000m <sup>2</sup>
Lot Width	42m(approx.)	40.0m
Lot Depth	150m(approx.)	35.0m
Setbacks		
- Creek	3m (min)-35m (max)	30m (Setback Double in I Zone)

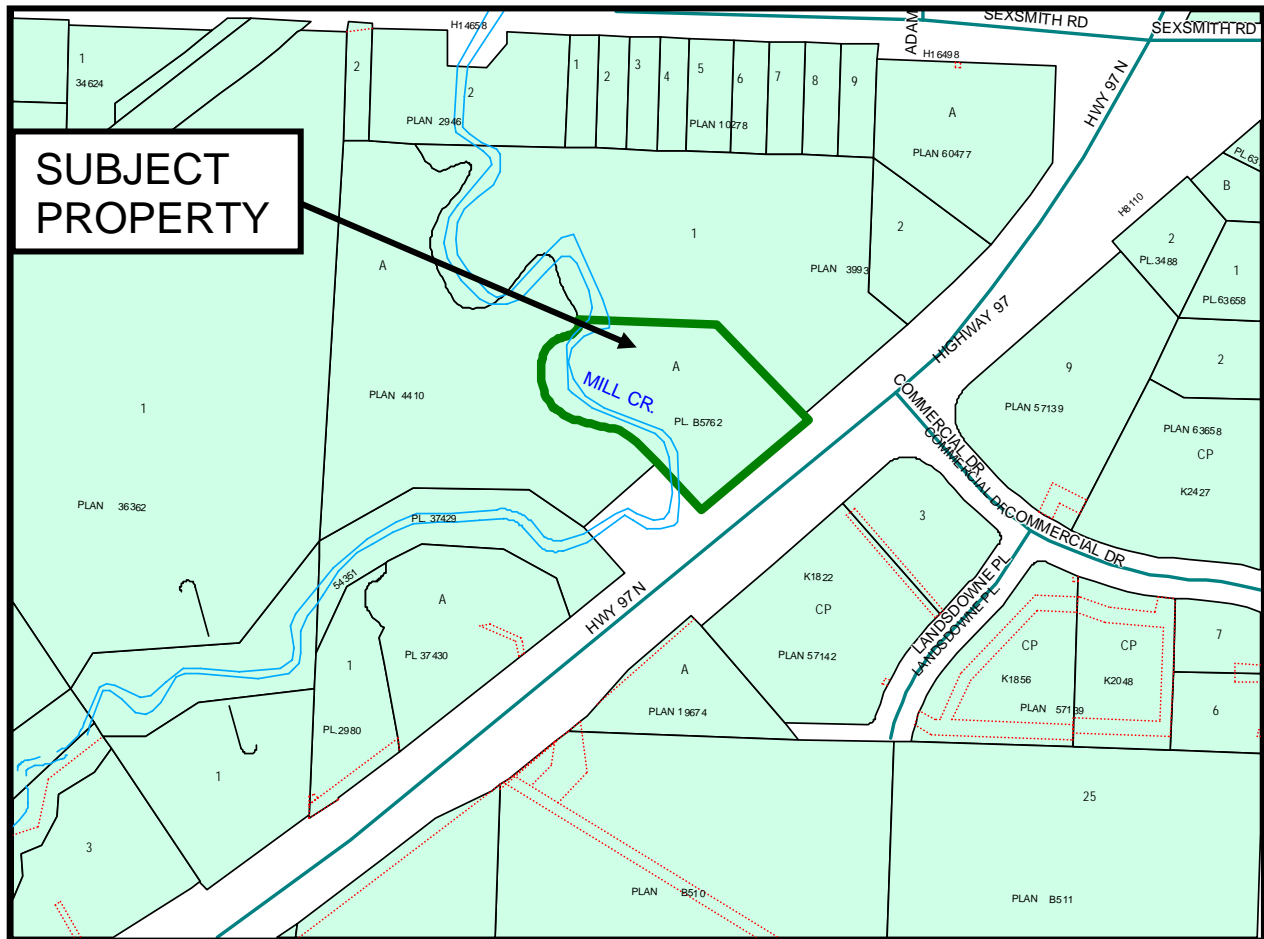
### 4.2 Site Context

The subject property is located on north side of Highway 97 near the intersection of Sexsmith Road and Old Vernon Road. The subject property also lies inside the boundaries of the Highway 97 Sector Plan (draft).

Adjacent zoning and existing land uses are to the:

North - I2 - General Industrial - Vacant  
East - I2 - General Industrial - Vehicle Storage/Parking

Subject Property: 3724 Hwy 97 N



#### 4.3 Existing Development Potential

The property is zoned A1 – Agriculture 1, a zone intended to provide for rural areas and agricultural uses as well as other complementary uses suitable in an agricultural setting.

#### 4.4 Current Development Policy

##### 4.4.1 Kelowna Official Community Plan

###### *Future Land Use Designation*

The Official Community Plan designates the future land use of the subject property as “Industrial” and encourages the location of future industrial development to be in those areas designated for industrial purposes in the OCP.

###### *7.9 Natural Environment Policies*

Ensure that all development and activities occurring on properties designated as environmental development permit areas are reviewed and meet the requirements for mitigation, compensation, protection, or replacement.

Encourage all development and infrastructure projects to conserve wetlands, wildlife habitat, trees or other indigenous vegetation.

##### 4.4.2 Kelowna Strategic Plan (1992)

###### Strategy 1.10:

The City will, in its Official Community Plan, reserve and designate lands for various forms of industrial use including lands along Highway No. 97, the north end of the Central City and industrial areas in the Winfield area for heavier industrial uses.

#### 5.0 TECHNICAL COMMENTS

##### 5.1 Works and Utilities

###### 5.1.1 Subdivision.

Dedicate a road widening along the Hwy 97 frontage. The exact amount of the dedication is to be determined by the Ministry of Transport (MOT).

Dedicate a corner rounding at the South-West of the intersection of Hwy 97 and the new proposed road

Dedicated a Right of Way on each side of Mill Creek as required by MWLAP and the City of Kelowna Environmental Division Requirements.

Provide easements as may be required.

#### 5.1.2 Geotechnical Study.

A comprehensive Geotechnical Study is required, which is to be prepared by a Professional Engineer competent in the field of geotechnical engineering. The Study is to address the following:

Overall site suitability for development.

Slope analysis.

Presence of ground water and/or springs.

Presence of fill areas.

Presence of swelling clays.

Presence of sulfates.

Potential site erosion.

Provide specific requirements for footings and foundation construction.

Provide specific construction design sections for roads and utilities over and above the City's current construction standards.

#### 5.1.3 Domestic water and fire protection.

This development is within the service area of the Black Mountain Irrigation District (BMID). The developer is required to make satisfactory arrangements with the BMID for these items. All charges for the service connection and upgrading area to be paid directly to the BMID.

The water system must be capable of supplying domestic and fire flow demands in accordance with the Subdivision & Servicing Bylaw. The applicant must provide water computation to confirm the available water supply.

#### 5.1.4 Sanitary Sewer.

The subject property is not currently serviced by the municipal sanitary sewer collection system. An application for inclusion in Specified Area #1 must be made and an administration levy of \$250.00.

The developer will be responsible to install a sanitary sewer service to the property line at its own cost. The cost of the sanitary sewer extension is estimated at \$28,000.00 inclusive of bonding escalation.

#### 5.1.5 Drainage

A comprehensive site drainage management plan and design in compliance with the City's drainage design and policy manual, is a requirement of this application.

#### 5.1.6 Power and Telecommunication.

The services to this development are to be installed underground. It is the developer's responsibility to make an application to the respective utility companies. The utility

companies area then required to obtain the City's approval before commencing any of their works.

#### 5.1.7 Road Improvements.

The developer is responsible to upgrade the Hwy 97 frontage to a rural standard as per the MOT requirements. The upgrading might require an additional lane, a deceleration lane, an acceleration lane, paved shoulder, storm drainage works and/or the relocation of existing utilities. The cost for the Hwy frontage upgrading is estimated at \$31,000.00 and is inclusive of a bonding escalation.

Some of the frontage upgrading construction might be deferred at the discretion of the City or the MOT, in which case an equivalent cash contribution will be required.

The dedication and construction of the new road will be dealt at the subdivision stage and should be constructed in conjunction with the development of the adjacent property to the north.

#### 5.1.8 Street Lights

Street lights must be installed on all the fronting roads as determined by the manager of Electrical Utilities.

#### 5.1.9 Engineering.

Design, construction, supervision and inspection of all off-site civil works and site servicing must be performed by a Consulting Civil Engineer and all such work is subject to the approval of the City Engineer.

#### 5.1.10 DCC Credits.

None of the required improvements qualify for DCC credit consideration, as these upgrades are not identified in the current DCC schedules.

#### 5.1.11 Latecomer.

Under the provisions of the Local Government Act, Latecomer provisions may be available for the sanitary sewer extension:

The consulting engineer is to prepare and submit the Latecomer information. The City will prepare the actual Latecomer Agreement(s) and forward to the owner(s) for signature. The Latecomer Agreements must be submitted for Council's adoption prior to the notice to proceed with the works and/or subdivision approval.

#### 5.1.12 Bonding and Levies Summary.

##### a) Performance Bonding

Sanitary sewer extension	\$28,000.00
Hwy 97 frontage upgrading	\$31,000.00
Total performance bonding	\$59,000.00
b) Levies	
Sewer specified Area inclusion	\$ 250.00

5.2 Black Mountain Irrigation District

The property is currently serviced with a 38mm water service.

We have no objections to the rezoning of the property. If upgrading of the present water service is required, this would be at the owners' cost.

5.3 Fire Department

Fire department access and hydrants as per the BC Building Code and City of Kelowna Subdivision By-law.

5.4 Fortis BC

No response.

5.5 Inspection Services Department

No concerns.

5.5 Ministry of Water Land and Air Protection

The lot proposed for rezoning borders and or fully contains Mill Creek. We recommend a leave strip free from disturbance measured from the natural boundary or top of ravine to the fishery within Mill Creek based on the provincial Land Development Guidelines.

Any proposal with a leave strip measured less than 30 metres should require and adhere to the recommendations of an environmental assessment completed by a qualified professional consultant to insure the Fisheries act is adhered to.

The standards for sediment and erosion control outlined in the jointly published BC Environment/Fisheries and Oceans Canada "Land Development Guidelines for the Protection of Aquatic Habitat" must be adhered to.

Additional comments/requirements will be presented at the development permit stage.

5.6 Ministry of Transportation

The Ministry of Transportation will be prepared to give approval to the above mentioned bylaw once all requirements of our letter dated December 20, 2001 and the section entitled "Rezoning – No Subdivision" have been met. A copy of our December 20, 2001 letter is attached for your reference. Highway 97 to be dedicated to a minimum width of 23 metres from existing centre line. All necessary design drawings for the right turn taper must be submitted for review and approval prior to final approval of the bylaw. Design criteria for the right turn taper will be established once size and scope of the development, yet unknown, has been confirmed. Provided the City will hold the appropriate securities for the construction of the required taper, the Ministry would be in a position to approve the bylaw base on approved drawings and confirmation from the City that securities are in hand.

After having had some discussions with the applicant's agent on August 10, 2004, it is our understanding that both Parcel A of Lot 2 (your file Z04-0045), and Lot 1, Plan3993 (your file Z02-1052) are now under control of one owner. If the applicant is proposing a development that requires both properties, the lot consolidation should be a requirement of the development permit. The applicants agent also mentioned that if they consolidate the lots, they may be interested in shifting the road reserve closer to the creek which would result in more useable land area overall. The Ministry is prepared to consider an amended alignment and the applicant should be advised to submit a proposal. The proposal must satisfy the general intent outlined in our letter dated December 20, 2001.

Interest has also been expressed in constructing a left turn slot from Highway 97 to the road reserve area. In our letter dated December 20, 2001 the Ministry withdrew this offer due to limited sight distance at this location. If the client wishes to pursue the left turn slot then the road reserve area must first be confirmed as to location, the lots must be consolidated, trip generation rates reviewed to confirm the length of left turn storage required, and sight distance must be satisfied.

Design drawings are to be submitted, reviewed, and approved by the Ministry prior to us granting final approval to the construction of the left turn slot. All necessary Highway right of way dedication needed to accommodate these improvements will be a condition of the final approval of the lot consolidation plan.

5.7 Parks Manager

Parks will require a 15 meter wide park dedication measured from the top-of-bank of Mill Creek.

A 30 meter wide environmental no-build, no-disturb covenant will also be required measured from top-of-bank of Mill Creek. The applicant will be required to install a 4' high black chain link fence demarking this line.

In addition, the Mill Creek Linear Park Master Plan outlines the public recreation corridor to cross Mill Creek with a bridge near the southern property line and follow the future alignment of the proposed access road. The pathway is Type C



- Sidewalk with Boulevard: a 1.5 meter wide on-road bike lane, a 2.0 meter wide grass boulevard strip with trees, and a 1.5 meter wide concrete sidewalk.

All plant material (trees, shrubs, ground covers and seed/sod) used in all boulevards to be reviewed by the City Parks Division. All materials located in boulevard to meet City standards and/or Master Municipal Specifications (MMCD) for size and method of installation.

Boulevard maintenance including watering (manual or automated irrigation), shrubs, ground cover, sod, and seeded areas will be the responsibility of owner/occupant.

Boulevard tree maintenance will be the responsibility of Parks Division. However, the adjacent owner will be responsible for watering and replacement of trees during the establishment period, for at least two growing seasons after planting.

5.8 Public Health Inspector

No comment.

5.9 Shaw Cable

Owner/developer to supply and install an u/g conduit system

5.10 Telus

No comment.

5.11 Terasen

No comment.

5.12 RCMP

No comment.

### 3.0 PLANNING AND CORPORATE SERVICES COMMENTS

Staff are generally supportive of the proposed land-use and are pleased that the subject property will be developed in tandem with the parcel to the north. The applicant will be required to provide creek dedications for park, covenants for riparian management, and future road prior to final zoning approval. These will be consistent with those required at 3732 Hwy.97N.

Council consideration of a development permit will be required concurrent with final adoption of the zone-amending bylaw and prior to any development of the subject property.

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Andrew Bruce  
Manager of Development Services

Approved for inclusion

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

RM/AB/rs  
Attach.

**FACT SHEET**

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|--|---|
| 1. APPLICATION NO.:  | Z04-0045  |
| 2. APPLICATION TYPE:   | REZONING  |
| 3. OWNER:  | Okanagan Manufacturer's BC Ltd.   |
| • ADDRESS  | 316 Dawson Avenue   |
| • CITY   | Kelowna, BC   |
| • POSTAL CODE  | V2N 3N6   |
| 4. APPLICANT/CONTACT PERSON:                                   | Grant Maddock   |
| • ADDRESS  | #200-1449 St. Paul Street   |
| • CITY   | Kelowna, BC   |
| • POSTAL CODE  | V1Y 2E4   |
| • TELEPHONE/FAX NO.:   | 860-1994  |
| 5. APPLICATION PROGRESS:                                       |   |
| Date of Application:   | June 24, 2004   |
| Date Application Complete:                                     | June 24, 2004   |
| Servicing Agreement Forwarded to Applicant:                    | N/A   |
| Servicing Agreement Concluded:                                 | N/A   |
| Staff Report to APC:   | July 26, 2004   |
| Staff Report to Council:                                       | N/A   |
| 6. LEGAL DESCRIPTION:  | Parcel A(DD 118746F and Plan B5762) of Lot 2, Sec. 35, Twp. 26, ODYD Plan 2980 except Plan H8110  |
| 7. SITE LOCATION:  |   |
| 8. CIVIC ADDRESS:  | 3732 Highway 97N, Kelowna, BC   |
| 9. AREA OF SUBJECT PROPERTY:                                   | The subject property is located on north side of Highway 97 near the intersection of Sexsmith Road and Old Vernon Road. The subject property also lies inside the boundaries of the Highway 97 Sector Plan (draft). |
| 10. EXISTING ZONE CATEGORY:                                    | A1 – Agriculture 1  |
| 11. TYPE OF DEVELOPMENT PERMIT AREA:                           | Environmental DP Area   |
| 13. PURPOSE OF THE APPLICATION:                                | TO REZONE THE SUBJECT PROPERTY FROM A1 – AGRICULTURE 1 TO I2 – GENERAL INDUSTRIAL   |
| 14. MIN. OF TRANS./HIGHWAYS FILES NO.:                         | .....   |
| NOTE: IF LANDS ARE WITHIN 800 m OF A CONTROLLED ACCESS HIGHWAY |   |
| 15. DEVELOPMENT PERMIT MAP 13.2 IMPLICATIONS                   | N/A   |

**ATTACHMENTS**

**(not attached to the electronic version of the report)**

- Location of Subject Property