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**CITY OF KELOWNA**

**MEMORANDUM**

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**Date:** July 20, 2005  
**To:** City Manager  
**From:** Planning & Corporate Services Department  
**Subject:**

**APPLICATION NO.** DP05-0108/ **OWNER:** Okanagan Manufacturer's BC Ltd.  
DVP05-0109

**AT:** 3724 and 3732 Hwy 97 **APPLICANT:** Protech Consultants Ltd.

**PURPOSE:** THE APPLICANT IS COUNCIL APPROVAL OF A DEVELOPMENT PERMIT FOR THE FORM AND CHARACTER OF A PROPOSED INDUSTRIAL DEVELOPMENT ON THE SUBJECT PROPERTIES

THE APPLICANT IS SEEKING TO VARY THE RMA SETBACKS FOR A PROPOSED INDUSTRIAL DEVELOPMENT ON THE SUBJECT PROPERTIES FROM 30M REQUIRED TO A MINIMUM OF 5M WITH AN AVERAGE SETBACK OF 20M

**EXISTING ZONE:** A1 - AGRICULTURE

**PROPOSED ZONE:** I2 – GENERAL INDUSTRIAL

**REPORT PREPARED BY:** RYAN SMITH

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**1.0 RECOMMENDATION**

THAT Final Adoption of Zone Amending Bylaws No. 9105 and 9301 be considered by Council;

AND THAT Council authorize the issuance of Development Permit No. DP05-0108 for Parcel A (DD118746F & Plan B5762) of Lot 2, Sec 35, Twp 26, ODYD, Plan 2980 Except Plan H8110 and Lot 1, Sec 35, Twp 26, ODYD, Plan 3993, except Plans 4410 and H8110 located on Hwy. 97 Kelowna, B.C. subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";
2. The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "B";
3. Landscaping to be provided on the land be in general accordance with Schedule "C";
4. The applicant be required to post with the City a Landscape Performance Security deposit in the form of a "Letter of Credit" in the amount of 125% of the estimated value of the landscaping, as determined by a professional landscaper;

AND THAT Council authorize the issuance of Development Variance Permit No. DVP05-0109; A (DD118746F & Plan B5762) of Lot 2, Sec 35, Twp 26, ODYD, Plan 2980 Except Plan H8110 and Lot 1, Sec 35, Twp 26, ODYD, Plan 3993, except Plans 4410 and H8110 located on Hwy. 97, Kelowna, B.C.;

AND THAT variances to the following sections of Zoning Bylaw No. 8000 be granted:

Section 6.14: Riparian Management Area (RMA) Setbacks: 6.14.1:

Vary the riparian management area setback from 30m required to a minimum of 5m proposed as shown on Schedule "A" attached to this report subject to the recommendations found in the Environmental Impact Assessment report by Summit Environmental Consultants dated July 2005.

AND FURTHER THAT the applicant be required to complete the above-noted conditions within 180 days of Council approval of the development permit application in order for the permit to be issued.

## 2.0 SUMMARY

The applicant is seeking Council support for a development permit for the form and character of a proposed R.V. Centre on the subject properties and associated environmental mitigation work in the Mill Creek Riparian Management Area. The applicant is also seeking Council support for a development variance permit to reduce the required riparian management area setbacks adjacent to Mill Creek from 30m required to an average of 20m (with a minimum of 5m). The applicant has engaged a qualified environmental professional who has prepared an Environmental Impact Assessment report with recommended measures for mitigation for the encroachment into the riparian management area of Mill Creek.

## 4.0 BACKGROUND

Zone amending bylaws (A1 zone to I2 zone) for the two subject properties are currently sitting at third reading pending the resolution of several technical issues including lot consolidations, road dedication, and environmental mitigation which are being address in conjunction with this development application or in a related technical subdivision application.

### 4.1 The Proposal

The applicant is proposing to consolidate the subject properties and construct an R.V. Sales Centre. Both properties have been the subject of rezoning applications which are sitting at third reading pending Council consideration of development and development variance permit applications. The subject properties are impacted by Mill Creek which traverses the western boundary. The proposed RV Sales Centre will measure 1149m<sup>2</sup> in size and will house a showroom, parts display area, 3 service bays and office space. The 3 service bays will have access from both the front and rear of the building. The façade of the showroom/display area of the sale centre will be finished with a cottage/cabin type design with a cultured stone base, simulated wood columns and beams and stucco walls. The applicant is also proposing a large exterior parking/display area. The sales centre will be located near the centre of the subject property. The subject property will take access from Highway 97 and will also have a driveway access to Sexsmith Road.

The applicant is proposing to vary the Mill Creek riparian management area to accommodate the proposed development. For industrial development the zoning bylaw requires a setback of 30m while the applicant is proposing to reduce this setback to as little as 5m in two sections. This encroachment into the RMA would mitigated with larger setbacks to the creek elsewhere

on the subject property and with the implementation of an environmental mitigation plan produced by a qualified environmental professional and approved by staff through and environmental development permit.

The subject property is also impacted by a road reserve required by the Ministry of Transportation. This road reserve will run parallel to Mill Creek. All land on the western side of the road reserve will be dedicated to the city after the required environmental mitigation works are completed according to an approved environmental development permit issued by the City of Kelowna.

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

CRITERIA	PROPOSAL	I2 ZONE REQUIREMENTS
Site Area (gross)	27, 658m <sup>2</sup>	4000m <sup>2</sup>
Site Area (net – after dedications)	17,800m <sup>2</sup>	4000m <sup>2</sup>
Lot Width	150m (approx.)	40.0m
Lot Depth	185 (approx.)	35.0m
Site Coverage	10%	
FAR	0.06	1.5
Setbacks		
Front (Hwy.97)	23.6m	7.5m
Side (E)	41.2m	4.5m
Side (W) - Mill Creek	5m (min)-35m (max)	30m (Setback Double in I Zone)
Rear	72.9m	6.0m
Parking Stalls (#)	72	20

#### 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
- South - A1 – Agriculture 1
- West - I2 – General Industrial - Vacant



#### 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.

###### **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.

###### **Objectives for Industrial Development**

All development should be an appropriate response to its physical context, or anticipated future context where an area is designated for increased density or land use transition in the OCP.

All development should facilitate access by, and minimize conflicts among pedestrian, bicycle, and vehicular modes of transportation (access, mobility).

All development should promote safety and security of persons and property within the urban environment (CPTED).

All development should minimize impacts resulting from on-site activities and processes that could negatively affect adjacent land uses.

###### **Guidelines for Industrial Development**

###### **Access**

-Design is not generally conducive to pedestrian or bicycle access however, the nature of the development does not generally attract this type of traffic.

-Vehicle access exists from Hwy.97 and via a lane from Sexsmith.

### **Amenities**

-The applicant is providing dedications along Mill Creek to preserve sensitive riparian habitat. The dedicated area will be fenced.

### **Ancillary Services/Utilities**

Loading, garbage and other ancillary services are located at the rear of buildings.

### **Buildings, Structures and Additions**

Buildings and structures are designed and sited in a manner compatible with adjacent buildings and open areas.

### **Landscaping**

-Mitigation work

### **Crime Prevention through Environmental Design**

-External light will be used to enhance the safety of person on the site after dark.

### **Lighting**

-External light will be used to enhance the safety of person on the site after dark.

### **Pollution**

-It is not anticipated that the proposed R.V. Sales Centre will generate much noise or pollution.

### **Employee Amenities**

-Green space will be available adjacent to Mill Creek and bike racks will be provided.

#### **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 are 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
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#### 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

The Planning and Corporate Services Department has no concerns with the proposed development permit and associated development variance permit. The applicant has worked patiently and cooperatively with staff towards the development of these properties for several years. The development of the proposed properties has presented many challenges including the protection of the Mill Creek riparian corridor, the protection of a road reserve as required by the Ministry of Transportation and related access/egress issues. Staff are confident that the proposed development plan represents an equitable compromise between all stakeholders involved.

At the request of staff, the applicant has made revisions to the highway fronting elevation of the proposed building in order to add additional detailing to the garage bay portion. The applicant has also updated the site plan to show bicycle parking and refuse/recycling bins.

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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.

**ATTACHMENTS**

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

- Location of Subject Property
- Environmental Impact Assessment
- Site Plan
- Building Elevations