
CITY OF KELOWNA

MEMORANDUM

Date: September 8, 2005
File No.: **Z04-0082**

To: City Manager

From: Planning & Corporate Services Department

Subject:

APPLICATION NO. Z04-0082

OWNER: 298874 BC LTD,
JORDE HOLDINGS LTD,
218555 BC LTD, &
P & D LOGGING LTD

AT: 3260 HWY 97 N.

APPLICANT: LYNN WELDER
CONSULTING

PURPOSE: TO REZONE A PORTION OF THE SUBJECT PROPERTY FROM
THE EXISTING I2 – GENERAL INDUSTRIAL ZONE TO THE
PROPOSED I3 – HEAVY INDUSTRIAL ZONE IN ORDER TO
ALLOW FOR A METAL RECYCLING FACILITY

EXISTING ZONE: I2 – GENERAL INDUSTRIAL ZONE

PROPOSED ZONE: I3 – HEAVY INDUSTRIAL ZONE

REPORT PREPARED BY: PAUL McVEY

1.0 RECOMMENDATION

THAT Rezoning Application No. Z04-0082 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of part of Lot B, Sec. 34, Twp. 26, O.D.Y.D., Plan 25328, located on Highway 97, Kelowna, B.C., from the I2 – General Industrial zone to the I3 – Heavy Industrial zone as shown on Map "A" attached to the report of Planning & Corporate Services Department, dated August 22, 2005, be considered by Council;

THAT pursuant to the provisions of the City of Kelowna Development Application Procedures Bylaw No. 8140 and section 890 of the Local Government Act that the requirement for the public hearing be waived;

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

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

2.0 SUMMARY

The applicant has made application to rezone a portion of the subject property from the existing I2 – General Industrial zone to the proposed I3 – Heavy Industrial zone for that portion of the site that is located between Mill Creek and the approximate top of bank on the site closer to the adjacent highway. The intent is to provide a location near the railway for the operation of a metal recycling facility.

2.1 Advisory Planning Commission

The above noted application (Z04-0082) was reviewed by the Advisory Planning Commission at the meeting of January 18, 2005 and the following recommendation was passed:

THAT the Advisory Planning Commission supports Rezoning Application No. Z04-0082, for 3260 Hwy 97 N, Lot B, Plan 25328, Sec. 34, Twp. 26, ODYD, by Lynn Welder Consulting Ltd. (Lynn Welder Lalonde), to rezone a portion of the subject property from the I2-General Industrial zone to the I3-Heavy Industrial zone in order to allow for a metal recycling plant.

3.0 BACKGROUND

3.1 The Proposal

In 1999, the owner of the property performed substantial creek restoration along Mill Creek, as was authorized by DP99-10,069.

This current application seeks to rezone the portion of the property that is located between Mill Creek and the top of bank closer to Highway 97 N. in order to provide a new location for the metal recycling operation that is currently operating at the intersection of McCurdy Road and Highway 97 N.

The operator of the metal recycling operation (Action Metals) has been attempting to relocate this operation from the current, highly visible, site which is located at the intersection of McCurdy Road and Highway 97 N., as the current site is not appropriately zoned. However, this has proven to be challenging, as there are a limited number of sites that are large enough to provide adequate operating room for the operation, as well as having access to both Highway 97 and a railway.

This site was selected as there is direct access to Highway 97, and the railway is located to the west of the site across Mill Creek. The operator of Action Metals has had discussions with the local operator of the railway (Kelowna Pacific Railway), and has received advice that it would be feasible to construct a rail connection to this portion of the subject property by building a bridge structure across Mill Creek. There has been an Environmental Development Permit (DP05-0095) issued in July 2005 to deal with the environmental issues related to the creek crossing and the construction of a railway siding adjacent to the creek, as well as the associated site development for the metal recycling operation on this portion of the site. This Environmental Development Permit was issued on July 7, 2005 to allow construction of the creek crossing to occur during the "fisheries window" to permit works in and around a creek. The work authorized by the Development Permit is currently under way.

This rezoning application seeks to rezone that portion of the site that is located between Mill Creek and the top of bank which is located between Mill Creek and Highway 97 N. to the I3 – Heavy Industrial zone in order that it may be used for the storage, sorting, and reloading of this sorted industrial metal waste from trucks to rail cars for transport.

The applicant has made an associated subdivision application (S04-0132) for a bare-land strata subdivision. The application proposes the creation of 2 lots, one lot adjacent to Mill creek which is under application to be rezoned to the I3 – Heavy Industrial zone and a smaller lot adjacent to the highway which is to remain zoned I2 – General Industrial.

At this time, there has been no construction proposed for the lot adjacent to the highway. When there is construction proposed for this lot, it will be necessary for a development permit application to be made. However, as there is no residential development adjacent to this location, that development permit will be a “Direct Development Permit” which will be approved by the Director of Planning and Corporate Services, and will not be reviewed by the Advisory Planning Commission nor Council, as permitted in the Development Applications Procedure Bylaw No. 8140.

The proposal as compared to the I2 zone requirements is as follows:

CRITERIA	PROPOSAL	I2 ZONE REQUIREMENTS
Site Area (m ²)	13,200 m ²	4,000.0 m ² (with sewer)
Site Width (m)	61 m	40.0 m
Site Depth (m)	185 m	35.0 m

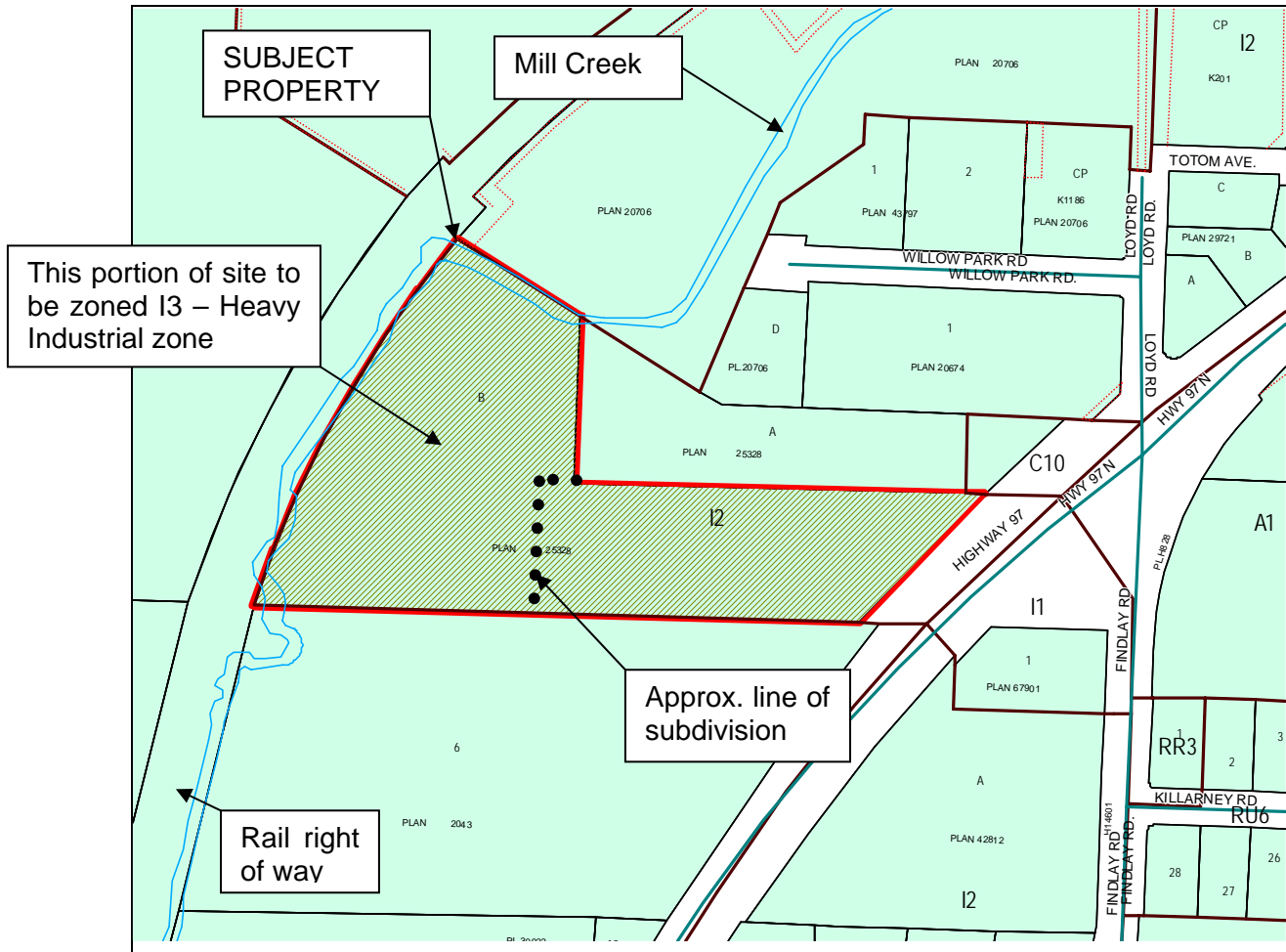
The proposal as compared to the I3 zone requirements is as follows:

CRITERIA	PROPOSAL	I3 ZONE REQUIREMENTS
Site Area (m ²)	25,000 m ²	8,000.0 m ² (with sewer)
Site Width (m)	234 m	40.0 m

3.2 Site Context

The subject property is located between Mill creek and Highway 97 N., near the intersection of Findlay Road and Hwy. 97 N. The property is generally flat and level adjacent to Highway 97 N. for a depth of approximately 200 m. where there is a top of bank, and a driveway which slopes down to another flat and level site adjacent to Mill Creek. In 1999 there had been a Development Permit issued to authorize stream side mitigation work along Mill Creek. There has been a new Environmental Development Permit (DP05-0095) issued to address the creek crossing for the rail spur, as well as the associated mitigation of riparian habitat and monitoring of construction.

SUBJECT PROPERTY MAP



Adjacent zones and uses are, to the:

- North - I2 – General Industrial – general industrial uses
A1 – Agriculture 1 / Mill Creek - Agriculture uses/vacant
- East - A1 – Agriculture 1 / Hwy 97 N - Agriculture uses
- South - A1 – Agriculture 1 - Agriculture uses
- West - A1 – Agriculture 1 / Mill Creek - Agriculture uses

3.3 Proposed Development Potential

The existing zone of **I2 – General Industrial permits**; auctioneering establishments, automotive and equipment repair shops, automotive and minor recreation vehicle sales/rentals, bulk fuel depots, commercial storage, contractor services – general, contractor services – limited, convenience vehicle rentals, custom indoor manufacturing, emergency and protective services, equipment rentals, fleet services, food primary establishment, gas bars, general industrial uses, household repair services, liquor primary establishment – minor, outdoor storage, participant recreation services – indoor,

private clubs, rapid drive-through vehicle services, recycling depots, recycled materials drop-off centres, service stations – minor, service stations – 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.

The proposed zone of **I3 – Heavy Industrial permits**; bulk fuel depots, concrete and asphalt plants, general industrial uses, outdoor storage, recycling depots, recycling plants, recycled materials drop-off centres, utility services - minor impact, utility services - major impact, vehicle and equipment services – industrial, and wrecking yard as principal permitted uses, and residential security/operator unit as a permitted secondary use.

3.4 Current Development Policy

3.4.1 Kelowna Official Community Plan

The proposed zone is consistent with the “Industrial” Future Land Use designation of the City of Kelowna Official Community Plan.

The Official Community Plan identifies Mill Creek upstream of Hardy Road as requiring a riparian setback of 30m. As well, the OCP also has the following statements relating to Mill Creek;

Guidelines for Development

In issuing conditions relating to a development permit waiver or in issuing development permit conditions, the City will specify how development permit objectives can be satisfied. This includes, but is not limited to, consideration of the following guidelines.

Preservation of Natural Areas

- Protect unique or special natural features such as land forms, rock outcroppings, mature trees and vegetation, drainage courses, wetlands, hilltops and ridge lines.
- Retain mature vegetation wherever possible and incorporate into the design of the project.
- Demonstrate that a diligent effort has been made in site design to preserve both the natural vegetation and tree cover.
- Utilize low-flow or drip irrigation systems that minimize the use of water.
- Require that where land and/or natural vegetation is disturbed or damaged that the area be restored and/or replanted with plant material indigenous to the area. A list of
- recommended species is available in the *Handbook for Environment Development Permit Areas*.

Riparian Management Areas Stream Management

- Prohibit obstructions and impediments to the flow of a stream, creek, watercourse, ditch, drain, or sewer whether or not it is located on private property.
- Require that the natural stream channel geometry be retained insofar as is feasible.
- Protect and manage natural watercourses as open streams (except as authorized by way of Ministry of Water, Land and Air Protection approval).

Riparian Management Area Requirements

- As a general rule, *Riparian Management Areas* should be of sufficient width to include any significant natural attribute and adjacent terrestrial ecosystem (i.e., vegetation, water features, fish and wildlife habitat, escarpments, terraces, steep valley sides and cliffs).
- Within the *Riparian Management Area*, where relaxation is considered, environmental mitigation and restoration will be a requirement of the development process.
- Relaxation of the Riparian Management Area may require habitat mitigation measures acceptable to the Ministry of Water, Land and Air Protection (e.g., planting, diversion of storm water, fencing, or restoration works), or compensation authorized by DFO.
- Any proposed relaxation of *Riparian Management Area* widths, storm water mitigation requirements, or erosion & sediment control requirements are to be referred to the Ministry of Water, Land and Air Protection for authorization prior to review by the City.

Protection Mechanisms

- Protect the *Riparian Management Area* permanently with a restrictive covenant, and where a linear park corridor is to be acquired, it may also be necessary to pursue:
 - Dedication as road—for public route of access
 - Re-zone as a protected area, park, or reserve status, or
 - Registration as statutory right-of-way.

Prohibited Uses/Activities within Riparian Management Area

- Prohibit the development of buildings, structures, and hard-surfacing, such as driveways and parking areas and limit soil deposition and some agricultural practices within the *Riparian Reserve Zone*.

NOTE: The environmental issues noted above have been addressed through the associated Environmental Development Permit (DP05-0095).

3.4.2 City of Kelowna Strategic Plan (2004)

The City of Kelowna Strategic Plan 2004 describes a vision of what residents hope Kelowna will be like in the future and has identified as one of the themes that overall, residents aspire to live in a community that:

- works to develop and maintain a strong, diversified local economy that offers residents opportunities for high-paying jobs
- embraces the social, cultural and physical well-being of its residents through the delivery of quality services at a reasonable price, the development and maintenance of quality infrastructure and built forms, and meaningful opportunities to be involved in major decisions made by the City.

The City of Kelowna Strategic Plan 2004 also states as an Objective;

1. Aid in the growth and progress of Kelowna as a desirable place to do business.
2. Aid in the growth and progress of Kelowna as a desirable place to visit, shop and tour.
3. Increase the diversity of employment opportunities.

4.0 TECHNICAL COMMENTS

The application has been circulated to various technical agencies and City departments and the following relevant comments have been submitted:

4.1 Fire Department

Fire hydrants as per BCBC

4.2 FortisBC

Will supply underground electrical service.

4.3 Inspection Services Department

Appears to have substantial fill - Geotechnical report required at building permit stage.

4.4 Irrigation District (B.M.I.D.)

No objection subject to a capital cost charge of \$1200 for the creation of a new lot. Should a building be erected requiring water, the charge of \$1000 for the 100 m² plus \$.00 per m² thereafter would apply. A connection fee of \$350 per building would apply at time of building. This property has a 250 mm watermain, complete with hydrants, in the common property area.

4.5 Ministry of Transportation

Regarding the proposed rezoning of a portion of the above-noted property from I-2 to I-3, we have no objections subject to the following:

1. Establishment of Highway 97 right-of-way, by legal plan, at 23 metres from existing mean centreline. Dedication to accommodate the required deceleration lane for the proposed highway access.
2. Design, construction and paving of deceleration lane for proposed highway access. This will require submission of acceptable engineered drawings for the proposed highway access with deceleration lane for 80kmh design speed as shown on Figure 2.3.5.3 of the *TAC Geometric Design guide for Canadian Roads*, including appropriate line painting and signage restricting movements to right turns. Existing highway drainage to be maintained. Design to be approved by the Ministry prior to start of any construction. Works to be supervised and certified by a Professional Engineer experienced with Ministry standards and requirements. Copies of all test results to accompany the Engineer's certification letter.
3. Submission to the Ministry District office of an access permit for the highway access. A condition of the permit will be that the access is temporary until such time that alternate access is available via the proposed municipal collector through middle of the subject property. Access to be located as shown on Drawing No. 11541.DWG dated November 4, 2004 prepared by Runnalls Denby and shall be restricted to right turn in and out only.
4. Submission of an acceptable restrictive covenant to be registered on both proposed lots that states that the highway access is temporary and, when alternate access is available via a municipal street, the highway access will be physically closed by the land owner. Covenant document to be in the name of the Minister of Transportation and registered with priority over any financial charges.

4.6 Parks Manager

Parks requires a 20 meter wide creek dedication on the subject's property measured from the top-of-bank of Mill Creek as outlined in the Mill Creek Linear Park Master Plan.

NOTE:

In 1999 DP99-10,069 had been issues which authorized a substantial amount of creek restoration along Mill Creek. That application recognized a 15 m Riparian Management Area, consistent with guidelines of the day. Since that time, there has also been DP05-0095 issued which authorize further creek mitigation works to facilitate a creek crossing for the required rail line into the subject property. Current guidelines require a 30 m Riparian Management Area along Mill Creek. This RMA has been reduced to 15 m. as was created by DP99-10,069, by the inclusion to restorative works and creek side mitigation as authorized by DP05-0095. Owing to the tight configuration of Mill Creek, site improvements to facilitate the metal recycling operation, and the creek side restoration works completed on site, the dedication of additional lands is considered excessive. There is the potential to combine the "Mill Creek Linear Path" with the pending "Rails to Trails" in this location, as the two trail systems are parallel and nearby in this location, or perhaps reroute the "Mill Creek Linear Path" onto the pending Willow Park Road" extension through the subject property.

4.7 Shaw Cable

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

4.8 Telus

Telus will provide underground facilities to this development. Developer will be required to supply and install conduit as per Telus policy.

4.9 Works and Utilities Department

The Works & utilities Department comments and requirements regarding this application to rezone the subject property from I2 to I3 are as follows:

1. Subdivision.

- a) Dedicate 20 m. for the Mill Creek corridor, measured from the top of the bank, in accordance with the City of Kelowna Environmental Division and Parks department requirements.
- b) Provide a 30 m. Highway reserve for a future collector as shown on the attached sketch along the edge of the existing bank. The future road dedication has not been finalised at this time, however, only a 20 m. wide road dedication will ultimately be required within the road reserve.

2. Geotechnical Study.

- a) Overall site suitability for development.
- b) Slope analysis (i.e. 0-10 %, 10-20 %, 20-30% and over 30 %).
- c) Presence of ground water and/or springs.
- d) Presence of fill areas.

- e) Presence of swelling clays.
- f) Presence of sulfates.
- g) Potential site erosion.
- h) Provide specific requirements for footings and foundation construction.
- i) Provide specific construction design sections for roads and utilities over and above the City's current construction standards

3. Hwy. 97 and access

- a) The property is affected by the proposed Hwy 97 Access Management Plan. Direct access will be restricted in the future after the completion of the proposed collector road through the property
- b) Highway 97 frontage is to be upgraded and widened to provide a deceleration lane to the proposed driveway, complete with line painting (refer to MOTH drawing No. K1-3.0). The estimated cost of this work, for bonding purposes, would be \$25,000.00, inclusive of a bonding contingency.

4. Domestic Water and Fire protection.

- a) The property is serviced by the Black Mountain Irrigation District (BMID) and as such, all servicing arrangements are to be made with the District.
- b) A water meter is mandatory for this development. This meter must be capable of metering all of the water to the site. The meter must be installed inside an above-ground meter house at the service inlet to the site. The developer or building contractor must purchase the meter from the City at the time of application for a building permit from the Inspection Services Department, and prepare the meter setter at his cost. Remote readers units are also mandatory on all meters.

5. Drainage.

A comprehensive site drainage management plan and design to comply with the City's drainage design and policy manual, is a requirement of this application. The storm water must be detained on site by providing catch basins, drywells all interconnected by perforated pipes.

6. Sanitary Sewer.

The property is currently serviced by the municipal wastewater collection system, the service and main extension were installed by the property owner.

7. 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.

8. Street lights

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

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 and the MOT

10. DCC Credits.

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

11. Levies and performance bonding.

Performance bonding	
Driveway and Hwy. widening (MOT requirement)	\$25,000.00
Levies.	At building permit stage

5.0 PLANNING AND CORPORATE SERVICES DEPARTMENT COMMENTS

This current application seeks to rezone the portion of the subject property which is adjacent to Mill Creek in order to permit the use of that portion of the site for a metal recycling operation, and to provide a space to reload sorted metal waste from truck units to rail cars for transport to other locations for further processing.

The subject property provides a location for this recycling operation as there is access to both rail transport and to Highway 97. This location also has the potential to move the operation to a location that is separated from the highway frontage and will not be visible from any adjacent roads.

The environmental concerns related to the crossing of Mill Creek to provide rail access to the site, as well as the pending industrial operation on the site have been addressed through the associated Environmental Development Permit, which has been the subject of review by Provincial agencies, as well as City environmental staff.

The applicant has been involved in extensive discussions with City staff to coordinate the proposed construction adjacent to the creek for the railway spur line crossing of Mill Creek, and to ensure that the proposed restoration and mitigation works approved by the Environmental Development Permit meet requirements of both the Province of British Columbia, and City of Kelowna Environment standards.

The applicant and their consultants have also met with City staff to review the requested location of the required “road reservation”, and to reduce this reserve area to a 30m width from the 50m width originally requested.

In light of the above, the Planning and Corporate Services Department supports this application, and recommends for positive consideration by Council.

Andrew Bruce
Manager of Development Services

Approved for inclusion

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

PMc/pmc
Attach.

Attachments

(Not attached to the electronic copy of the report)

Subject Property Map

2 pages of site plans & DP site development plan diagrams