

REPORT TO COUNCIL



Date: November 19, 2012

To: City Manager

From: Land Use Management, Community Sustainability (PMcV)

Application: Z10-0093

Owners: Kimberly & John Berg and Shanny & Marlin Toews

Address: 3170 Sexsmith Road

Applicant: Protech Consultants Ltd.

Subject: Extension Report

Existing Zone: A1 - Agriculture 1

Proposed Zone: I6 - Low-Impact Transitional Industrial

1.0 Recommendation

THAT the deadline for the adoption of Amending Bylaw No. 10445 (Z10-0093, for Lot 26 Section 3 Township 23 ODYD Plan 18861, located at 3170 Sexsmith Road, Kelowna, BC, NOT be extended from November 16, 2012 to May 16, 2013.

2.0 Purpose

The applicant proposes to rezone the subject property from the A1 - Agriculture 1 zone to the new I6 - Low-Impact Transitional Industrial zone. This zone is intended to perform a transition role allowing for reasonable industrial land uses between the general industrial land use to the south, and residential land use to the north.

3.0 Land Use Management

The above noted development application was originally considered at a Public Hearing by Council on November 16, 2010.

Section 2.12.1 of Procedure Bylaw No. 10540 states that:

In the event that an application made pursuant to this bylaw is one (1) year old or older and has been inactive for a period of six (6) months or greater:

- a) The application will be deemed to be abandoned and the applicant will be notified in writing that the file will be closed;
- b) Any bylaw that has not received final adoption will be of no force and effect;

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c) In the case of an amendment application, the **City Clerk** will place on the agenda of a meeting of **Council** a motion to rescind all readings of the bylaw associated with that Amendment application.

Section 2.12.2 of the Procedure Bylaw makes provision for Council to consider an extension to an amending bylaw for up to 6 months beyond the 12 months deadline.

Bylaw No. 10445 (Z10-0093) received second and third readings on November 16, 2010 after the Public Hearing held on the same date. The applicant wishes to have this application remain open for an additional six months in order to complete requirements to the satisfaction of the Development Engineering Branch and Glenmore Ellison Improvement District. This project remains unchanged and is the same in all respects as originally applied for.

When the last extension application was considered by Council, the following notification was formalized to inform the applicant with respect to future bylaw extensions:

“Please be advised the Council had a general discussion with respect to extending applications at third reading and requested that you be advised that future extensions may not be granted without compelling rationale to do so.”

Given that two years has lapsed without any notable activity and in consideration of Council’s previous anecdotal forewarning at the last extension granted, there is no compelling reason to further extend the bylaw. The subject property requires a Development Permit to be submitted in order to review the scope of the proposal, which remains an outstanding item. Additionally, Council has directed Staff to review the I6 - Low-Impact Transitional Industrial zone to ensure the intent of the transitional industrial land use is realized.

6.0 Alternate Recommendation

THAT the deadline for the adoption of Amending Bylaw No. 10445 (Z10-0093, for Lot 26 Section 3 Township 23 ODYD Plan 18861, located at 3170 Sexsmith Road, Kelowna, BC, be extended from November 16, 2012 to May 16, 2013.

Report prepared by:

Paul McVey, Land Use Planner

Reviewed by:



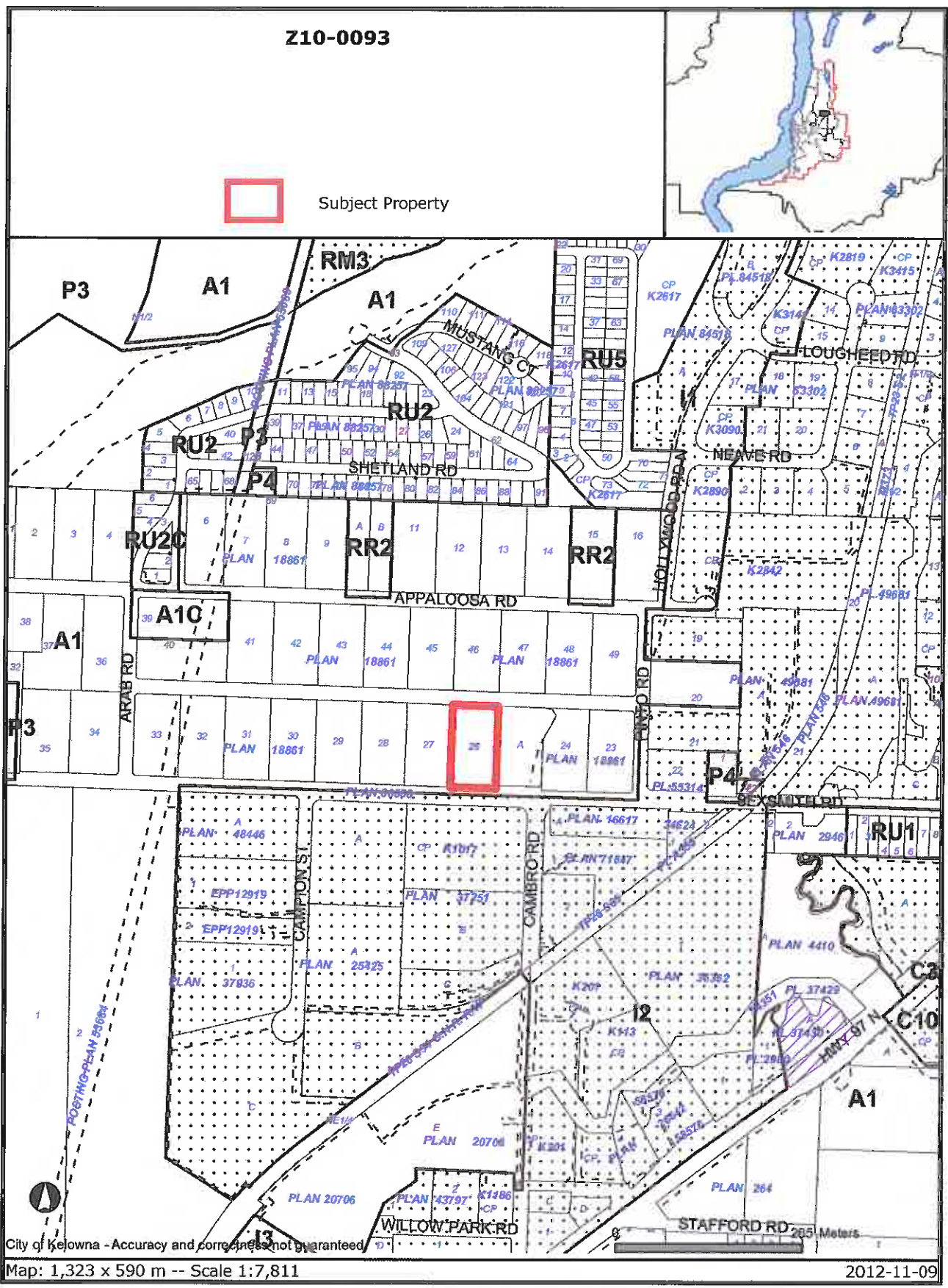
Danielle Noble, Manager, Urban Land Use Management

Approved for Inclusion:



Shelley Gambacort, Director, Land Use Management

Hb/pmc



City of Kelowna - Accuracy and correctness not guaranteed

Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only. The City of Kelowna does not guarantee its accuracy. All information should be verified.

3.06



May 8, 2012

Grant Maddock
Protech Consultants Ltd.
200, 1461 St. Paul Street
Kelowna, BC V1Y 2E4

Dear Mr. Maddock:

Re: Rezoning Application No. Z10-0093 - Kimberly & John Berg and Shanny & Marlin Toews
(Protech Consultants Ltd.) - 3170 Sexsmith Road

This will confirm that the following resolution was adopted at a Regular Meeting of the Municipal Council of the City of Kelowna held on Monday, May 7, 2012:

THAT in accordance with Development Application Procedures Bylaw No. 10540, the deadline for the adoption of Amending Bylaw No. 10445 (Z10-0093, for Lot 26 Section 3 Township 23 ODYD Plan 18861, located at 3170 Sexsmith Road, Kelowna, BC), be extended from May 16, 2012 to November 16, 2012.

Please be advised that Council had a general discussion with respect to extending applications at third reading and requested that you be advised that future extensions may not be granted without compelling rationale to do so.

Any questions you may have concerning this extension should be directed to the Land Use Management Department 250 469-8626.

Yours truly,

A handwritten signature in black ink, appearing to read "Sandi Horning".

Sandi Horning
Council Recording Secretary

SH/dd

cc: Development Planner (P. McVey)
Development Engineering Manager (S. Muenz)

John and Kimberley Berg
2285 Bridgeview Road
Kelowna, BC V1Z 1C4

Marlin and Shanny Toews
255 Mail Road
Kelowna, BC V1V 2H2

Office of the City Clerk
1435 Water Street
Kelowna, BC V1Y 1J4
TEL 250 469-8645
FAX 250 862-3315
kelowna.ca

PROTECH

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November 14, 2012
Our File 10104

City of Kelowna
1435 Water St.,
Kelowna, B.C. V1Y 1J4

Attention: Paul McVey

Dear Sir:

Re: Your File Z09-0035 – Rezoning Application

In response to your e-mail of November 13, 2012 and Council's request for rationale for extension of the rezoning, the following is a summary of each application.

Z10-0094 3190 Sexsmith Road – 567752 BC Ltd.

Protech is in the process of preparing the DP required to finalize the rezoning. The DP will be submitted by November 21, 2012 and required levies will be paid there after allowing the rezoning to be given Final Reading and adoption by December 15, 2012.

Z10-0092 3150 and 3170 Sexsmith Road – Kimberly and John Berg and Shanny and Marlin Toews

Z10-0093 The owners would like a 6 months extension to try and finalize a project they have been working on for the last 4 years. The 2007 down turn has made financing of the project difficult.

3130 Sexsmith Road – Matthew Ewonus

Z09-0035 Mr. Ewonus has been negotiation sale of the property with a purchaser who is presently working out of the country. The Purchase Agreement will require Mr. Ewonus to complete the rezoning,, including the payment of all City levies before the end of February, 2013.

Based on the above information we request Council give consideration to allow one more 6 month extension to fulfill the rezoning requirements.

Yours truly,
PROTECH CONSULTANTS LTD.



H. Grant Maddock

HGM/sam

CONSULTING ENGINEERS