

# REPORT TO COUNCIL



Date: November 2, 2012

To: City Manager

From: Land Use Management, Community Sustainability (JM)

Application: DVP12-0183                      Owner: Montague Holdings Ltd.

Address: 2610 Enterprise Way              Applicant: Alfred Horie Construction Co. Ltd. (John Paone)

Subject: Development Variance Permit

Existing OCP Designation: Major Park & Open Space (public) & Industrial

Existing Zone: I2 - General Industrial

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## 1.0 Recommendation

THAT Council authorizes the issuance of Development Variance Permit No. DVP12-0183, for That Part Lot B Lying South of the Right of Ways As Shown on Plan 2042, District Lot 125, ODYD, Plan 2042 Except: (1) Part Outlined in Red on Plan B5087 (2) Plans 9963, 12572, 20426, 21777 and KAP72758, located on 2610 Enterprise Way, Kelowna, BC;

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

**Section 7.6.9(c): Minimum Landscape Buffers**

To vary the minimum landscape buffer for industrial zone properties located adjacent to non-industrial zone properties from Level 3 required to Level 1 proposed;

**Table 7.1: Minimum Landscape Buffer Treatment Levels Schedule**

To vary the minimum landscape buffer for the front yard of a property zoned I2 from Level 2 required to Level 1 proposed;

**Section 15.2.5(d): Development Regulations**

To vary the minimum front yard setback from 7.5m required to 0.3m proposed;

**Table 8.1: Parking Schedule**

To vary the minimum off-street parking requirement from 28 permitted to 18 proposed.

## 2.0 Purpose

To consider the merits of a proposal to facilitate the replacement of the existing trans-shipping facility with a new terminal and associated circulation and parking areas. The proposal triggers the need for four (4) variances to the Zoning Bylaw, including:

- Two variances to the minimum landscape buffer requirements along Enterprise Way from Level 3 required to Level 1 proposed;

- A variance to the minimum front yard (Enterprise Way) setback from 7.5m permitted to 0.3m proposed; and
- A variance to the minimum off-street parking requirement from 28 stalls required to 18 stalls proposed.

### **3.0 Land Use Management**

Land Use Management staff are supportive of the proposed variances, as they are seen to further the multiple-bottom-line objectives of the Official Community Plan (OCP). Both the OCP and the most recent Council priorities<sup>1</sup> seek to achieve sustainable development by balancing multiple objectives, being, in this instance, economic development and environmental protection. To this end, staff have worked collaboratively with the applicant team to develop a response to a challenging site that meets these objectives.

While the subject property - the site of Van Kam Freightways Ltd. - is located advantageously at the intersection of several present and future major transportation routes, it is also subject to several constraints. These include highway widening requirements, riparian protection setbacks, and linear park requirements. Working with the applicant team, staff have come to a solution that allows Van Kam Freightways to renew and to expand their business operations locally, while also achieving the important goals of developing the Mill Creek Linear Corridor and preserving and enhancing the Mill Creek riparian area.

To achieve this, four (4) variances to the Zoning Bylaw are required in order to provide the flexibility needed to accommodate the proposal. Three (3) of the four variances relate to the Enterprise Way frontage, where the applicant is proposing to move their building to within 0.3m of the property line. This requires a reduction in the front yard setback and in the minimum landscape buffer requirements. To mitigate any negative impact of the reduced setback, the applicant team has oriented the building such that the office component of the use, which has a minimal impact on the street, is situated fronting Enterprise Way. The applicant has also designed the proposed structure to present a high-quality building face fronting Enterprise Way.

In addition, the applicant is seeking to vary the minimum parking requirement. Zoning Bylaw provisions dictate that the transshipping (freight) use would require 28 stalls of off-street vehicle parking. However, the use is rather unique, having few staff and discouraging visitors, due to significant security concerns. According to the applicant, the 18 stalls proposed will suffice to meet the daily demands of the business. However, should there be a temporary need for excess parking, the applicant has obtained a License of Occupation over a portion of the property being dedicated to the City to use for parking purposes on a temporary basis.

In summary, this proposal represents the culmination of a productive working relationship between City staff and the applicant team tackling the redevelopment of a challenging site, all with the goal of achieving the multiple objectives of the OCP.

## **4.0 Proposal**

### **4.1 Background**

Late in 2010, the applicant approached City staff seeking to redevelop the subject property, which currently contains Van Kam Freightways Limited, in order to expand and to consolidate their freight operations in the region. The existing site is situated advantageously at the corner of Highway 33 and Enterprise Way, in close proximity to Highway 97 and the future Central Okanagan Multi-Modal Corridor (COMMC). While supportive of the proposal, staff advised that the

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<sup>1</sup> City of Kelowna (June, 2012). Moving Opportunities Forward: Council Focus 2012-2014.



property is subject to several challenges that must be addressed in order to proceed. To begin, the future expansion of Highway 33 and Enterprise Way require some land dedications from the subject property. Additionally, the northern side of the property abuts Mill Creek. In the OCP, Mill Creek is identified as a priority for environmental protection and linear park development. In sum, development on the site would need to consider highway widening, riparian setbacks, and linear park requirements.

Staff have worked with the applicant team in an effort to find a mutually beneficial approach that would both support the retention of the business while also meeting the multiple bottom line objectives of the OCP. As a result, the applicant has agreed to dedicate to the City the highway widening required, and sufficient lands abutting Mill Creek to meet both riparian protection and linear corridor development objectives (see *Schedule "A"*). In exchange for these significant benefits, staff has indicated their willingness to support several variances to the Zoning Bylaw to provide the applicant team the flexibility it needs to meet the future demands of Van Kam Freightways business.

In addition to this Development Variance Permit, a Comprehensive Development Permit to evaluate the form and character of industrial development is required, as is a Natural Environment Development Permit. Both Development Permits will be executed at a staff level.

#### 4.2 Project Description

The applicant is seeking to consolidate the regional operations and to expand the Kelowna location of Van Kam Freightways Ltd. To achieve this, the subject property requires redevelopment, including an entirely new office/freight terminal building, reorganization of site parking and circulation, and new landscaping and screening. In order to comply with the multiple objectives of the OCP, the applicant team has come to an agreement to provide significant land dedications to the City for highway widening, linear park development, and riparian protection.

Due to these dedications, the applicant is proposing to move the office / freight terminal building closer to the front yard (Enterprise Way) than is presently permitted under the City's Zoning Bylaw. Specifically, the applicant is proposing to reduce the minimum front yard setback from 7.5m permitted to 0.3m proposed. This also triggers two variances to the minimum landscape buffer requirements for a portion of the Enterprise Way frontage from Level 3 and Level 2 required to Level 1 proposed.

A final fourth variance is proposed to minimum off-street parking requirements for the site from 28 required to 18 proposed. As rationale, the applicant has stated that the parking required by the Zoning Bylaw far exceeds the requirements of the business. Specifically, the operation currently maintains a staff of 12 (8 office staff, 4 warehouse staff) at any given time. Due to operational security regulations, visitors to the site are discouraged. The applicant team suggests that the provision of a total of 18 stalls (12 staff, 2 visitor, and 4 surplus) on site will more than meet their current and future parking needs. There will also be 10 additional stalls available temporarily via a License of Occupation over a portion of the lands abutting Highway 33 that will be dedicated to the City.

The existing access to the site will remain unchanged, with Van Kam trucks accessing the site via Enterprise Way, and the proposed new building will be located in a similar area as the existing structure that will be demolished. However, the new building will accommodate a greater number of trucks at one time for loading and unloading. The new building will feature office space fronting on Enterprise Way with the truck loading bays located on both east and west sides of the building. The remainder of the site will be used for truck and trailer parking and circulation, and for employee vehicle parking.

Landscaping and screening will be provided along both Enterprise Way and Highway 33. While landscaping and screening will be substantially reduced in front of the proposed building, landscaping elsewhere will meet Zoning Bylaw standards. Noting the reduction in buffering in front of the building, the applicant has proposed a building frontage on Enterprise Way that features a strong connection to the street and a high level of detail and finishing.

#### 4.3 Site Context

The subject property is approximately 18.9 ha in area and is located on the northeast side of the intersection of Enterprise Way and Highway 33. The property presently contains one principal building for office use and for transferring and storing freight. The remainder of the site is largely unpaved and is used for truck / trailer parking and circulation.

The site is surrounded by major transportation infrastructure. Presently, this is limited to Enterprise way, Highway 33 and close proximity to Highway 97. However, the City's 20-Year Major Road Network Plan identifies the extension of Highway 33 along the west side of the subject property, linking directly to the future Central Okanagan Multi-Modal Corridor (COMMC).

Mill Creek runs along and through the north side of the subject property. Beyond Mill Creek is the railway. The riparian area on the site is presently in poor condition, with a significant incursion of invasive species and an array of industrial debris. The riparian area ranges in width on the site from over 30m in the west to less than 10m in the east. According to the OCP, this stretch of Mill Creek is subject to a 30m setback for development.

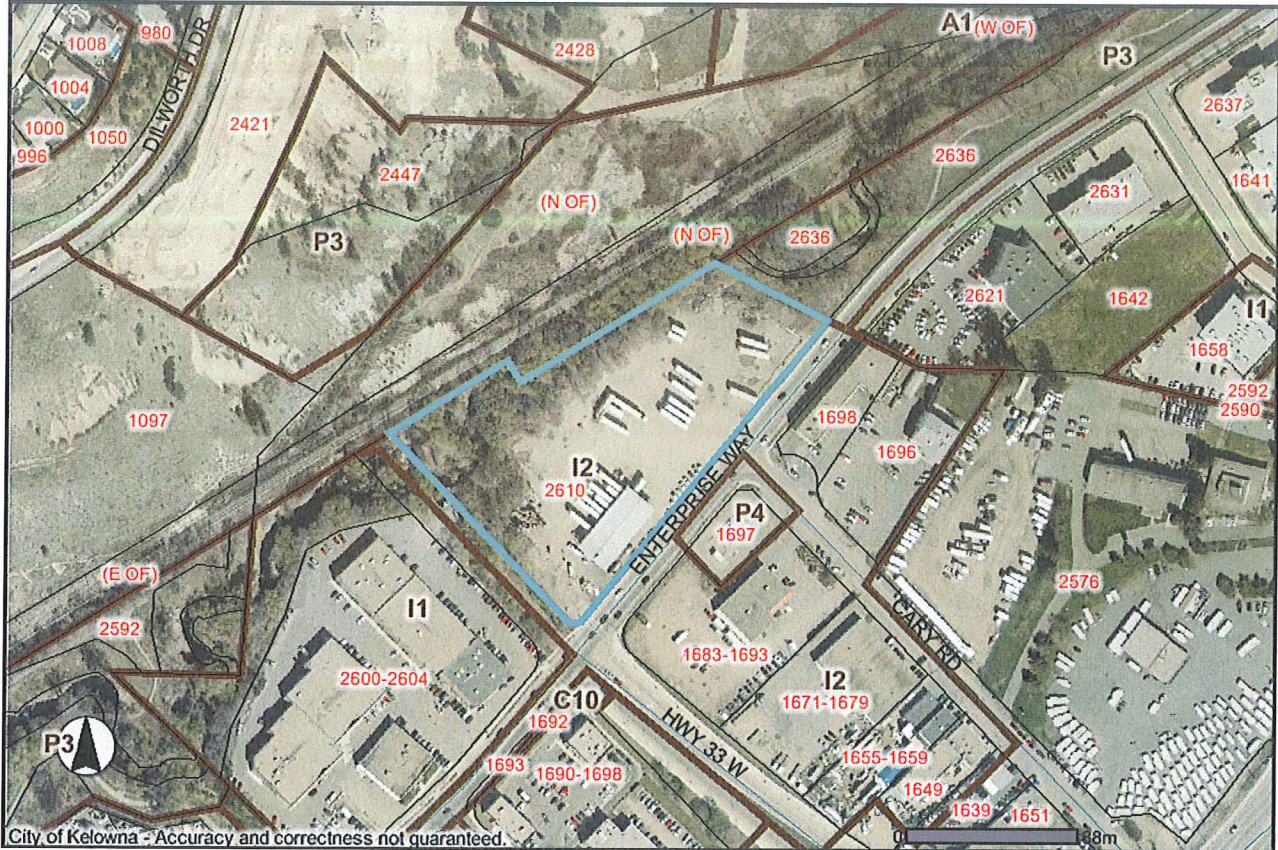
The subject property contains two OCP Future Land Use designations: Industrial, which applies generally to that portion the lands presently used for industrial purposes; and Major Park and Open Space, which applies to the 30m riparian setback area.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	A1 - Agriculture 1	Mill Creek / CNR Railway
East	P3 - Parks and Open Space	Mill Creek Linear Park
South	I2 - General Industrial P4 - Utilities	Mixed business / light industrial business Utility
West	I1 - Business Industrial	Mixed business industrial park



Subject Property Map: 2610 Enterprise Way



4.4 Zoning Analysis Table

Zoning Analysis Table		
CRITERIA	I2 ZONE REQUIREMENTS	PROPOSAL
Existing Lot/Subdivision Regulations		
Lot Area	4,000 m <sup>2</sup>	Approx. 12,306.5m <sup>2</sup>
Lot Width	40.0 m	Irregular - exceeds
Lot Depth	35.0 m	Irregular - exceeds
Development Regulations		
Floor Area Ratio	1.5	0.11
Site Coverage	60%	8.4%
Height	14.0 m	10.0 m
Front Yard	7.5 m	0.3 m <sup>⓪</sup>
Side Yard (east)	4.5 m	100.6 m
Side Yard (west)	6.0 m	48.0 m
Rear Yard	6.0 m	22.8 m
Other Regulations		
Minimum Parking Requirements	2.0 per 100 m <sup>2</sup> GFA = 28	18 <sup>⓪</sup>
Bicycle Parking	Class II: 0.30 per 100 m <sup>2</sup> GFA = 5	5
Loading Space	1 per 1,900 m <sup>2</sup> GFA = 1	26



Minimum Landscape Buffer	Level 3 (south) Level 4 (west)	Level 1 <sup>①</sup> (south) Level 4 (west)
Provincial Highway Setback	15.0 m	Approx. 50.0 m
<p>① Variance to the minimum front yard setback from 7.5m to 0.3m.</p> <p>② Variance to the minimum required off-street parking stalls from 28 required to 18 proposed.</p> <p>③ Variance to the minimum landscape buffer for industrial zoned parcels adjacent to non-industrial zoned parcels from Level 3 required to Level 1 proposed for the duration of the building frontage.</p> <p>④ Variance to the minimum landscape buffer for the front property line of parcels zoned I2 from Level 2 required to Level 1 proposed for the duration of the building frontage.</p>		

## 5.0 Current Development Policies

### 5.1 Kelowna Official Community Plan (OCP)

#### Economic Development

**Sustainable Prosperity.**<sup>2</sup> Assign priority to supporting the retention, enhancement and expansion of existing businesses and post secondary institutions and the attraction of new businesses and investment identified as bringing sustainable prosperity to Kelowna.

**Highway 97.**<sup>3</sup> Recognize the role that Highway 97 plays as a goods and services transportation link between Kelowna and its business markets.

#### Development Process

##### **Industrial Land Use Policies**

**Objective 5.28.**<sup>4</sup> Focus industrial development to areas suitable for industrial use.

**Objective 5.29.**<sup>5</sup> Ensure efficient use of industrial land supply.

**Objective 5.30.**<sup>6</sup> Ensure adequate industrial land supply.

**Dedication of Linear Parks.**<sup>7</sup> At subdivision and rezoning for all development types secure a minimum 10-metre wide linear corridor for public access as included in Table 5.1 Linear Park - Public Access and/or are shown on Map 5.9 - Linear Corridors / Paths. The 10-metre wide corridor may be in addition to, and outside, any riparian management area requirements imposed through the Environmental Development Permit (see Chapter 12) requirements of the OCP. On the private property side of the public access corridor, the City may, as necessary, consider stipulating additional “no disturb” zones. Lot line adjustments or other subdivision applications not resulting in the creation of new lots suitable for the construction of buildings permitted under the applicable zoning will be considered exempt from this policy. Linear trail corridors can have the following tenure which will be determined by staff at the time of subdivision or rezoning:

- Titled property in the name of the city as a park, protected area, or
- Road reserve right of way; or
- Statutory right of way.

<sup>2</sup> City of Kelowna Official Community Plan Bylaw No. 10500, Chapter 8 (Economic Development), Objective 8.1.1.

<sup>3</sup> City of Kelowna Official Community Plan Bylaw No. 10500, Chapter 8 (Economic Development), Objective 8.7.1.

<sup>4</sup> City of Kelowna Official Community Plan Bylaw No. 10500, Chapter 5 (Development Process), Objective 5.28.

<sup>5</sup> City of Kelowna Official Community Plan Bylaw No. 10500, Chapter 5 (Development Process), Objective 5.29.

<sup>6</sup> City of Kelowna Official Community Plan Bylaw No. 10500, Chapter 5 (Development Process), Objective 5.30.

<sup>7</sup> City of Kelowna Official Community Plan Bylaw No. 10500, Chapter 5 (Development Process), Policy No. 5.14.2.



**Protect Sensitive Areas.**<sup>8</sup> Sensitive environmental areas and riparian management areas (RMA) will be protected by siting trails beyond their boundaries, unless there are absolutely no alternatives.

**No Net Loss of Aquatic Habitat Productivity.**<sup>9</sup> Require “no net loss” with respect to land use decisions that affect aquatic habitat based on the “no net loss” principle of the Department of Fisheries and Oceans policy. No individual land use or development project should result in a net loss in habitat productivity as determined through environmental assessment in land use decisions and project approvals that affect aquatic habitats as identified on the Natural Environment DP Map 5.5. In the long term the City will strive for a net gain in overall productivity of the city’s aquatic habitats. “Tradeoffs” in the interest of land development will only be supported when longterm net gains in habitat productivity can be substantiated.

**Habitat Protection.**<sup>10</sup> Ensure a proposed development footprint within an ESA is configured in such a way as to minimise the encroachment toward aquatic or terrestrial habitat. Consider zoning and/or subdivision variances where needed to prevent or minimize a relaxation of or encroachment into the RMA or to acquire greater RMA width for environmental protection or hazard avoidance.

### Infrastructure

**Roadway Modifications.**<sup>11</sup> Implement roadway modifications based on Map 7.3 - 20 Year Major Road Network Plan and a process, which primarily considers TDM objectives, but also addresses factors such as collision reduction, travel time savings, pavement quality, cost/benefits, minimum level-of-service policy criteria, movement of goods and services on designated truck routes, and environmental, land use and development objectives. Except where there are safety issues, refrain from implementing major roadway modifications intended to increase capacity and/or efficiency for automobiles on non-commercial routes (truck routes are considered commercial routes) until the peak hour level-of-service (LOS) is at the threshold of failure, measured at non-tourist season peaks.

**Linear Park Priorities.**<sup>12</sup> The top six linear park priorities for the City, as endorsed by the Linear Park Master Plan are:

- Waterfront Walkway
  - Kinsmen to Strathcona; and
  - Rotary Beach Park to Mission Creek
- Rails with Trails
- Mill Creek
- Bellevue Creek
- Gopher Creek, and
- Mission Creek - Lakeshore to the Lake.

## 6.0 Technical Comments

### 6.1 Building & Permitting Department

- 1) Development Cost Charges (DCC’s) are required to be paid prior to issuance of any Building Permit(s) for new construction

<sup>8</sup> City of Kelowna Official Community Plan Bylaw No. 10500, Chapter 5 (Development Process), Policy No. 5.14.4.

<sup>9</sup> City of Kelowna Official Community Plan Bylaw No. 10500, Chapter 5 (Development Process), Policy No. 5.15.1.

<sup>10</sup> City of Kelowna Official Community Plan Bylaw No. 10500, Chapter 5 (Development Process), Policy No. 5.15.11.

<sup>11</sup> City of Kelowna Official Community Plan Bylaw No. 10500, Chapter 7 (Infrastructure), Policy No. 7.10.1.

<sup>12</sup> City of Kelowna Official Community Plan Bylaw No. 10500, Chapter 7 (Infrastructure), Policy No. 7.13.1.

- 2) Size and location of all signage to be clearly defined as part of the development permit
- 3) This property falls within the Mill Creek flood plain bylaw area and compliance is required. Minimum building elevations are required to be established prior to the release of the Development Permit. This building may be designed to low, which may affect the form and character of the building.
- 4) A Building Code analysis is required for the structure at time of building permit applications, but the following items may affect the form and character of the building. The building appears to project in the riparian setback, the second floor stairs are not rated and do not exit directly to the exterior and travel distance of the main warehouse space maybe exceeded for a building without sprinklers.
- 5) Full Plan check for Building Code related issues will be done at time of Building Permit applications
- 6) Demolition permits are required for any existing building(s).

## 6.2 Development Engineering Department

See Development Engineering Memorandum, dated October 15, 2012

## 6.3 Parks Services

All new fencing is to be 6" (150mm) within new property line. All existing fencing along current property line to be removed by developer. Remove all debris and garbage from proposed dedication area.

## 6.4 Fire Department

No concerns at this time. Additional comments will be required at the building permit application.

## 6.5 Public Health Inspector

### *Healthy Built Environments*

We strongly support development requirements aimed at preserving and restoring riparian areas along Mill creek, including appropriate setback distances to adjacent land uses. We also note that this region along Mill Creek may tie into future phases of the "rails with trails" or Mill Creek linear park/pathway to UBCO. Accordingly, there may be an opportunity for such considerations in the current development proposal and in view of that, we would support any initiatives aimed at enhancing public walking and cycling corridors.

## 6.6 Rutland Waterworks District

See letter from Rutland Waterworks District, dated October 17, 2012.

## 6.7 FortisBC Energy - gas

There is an existing Right of Way and high pressure pipeline on this property and the following comments are in regards to the TP service -

Potential impact to the FortisBC transmission pipeline and right of way, please see comments:

- Concrete pads for the trucks will not be permitted within the FortisBC ROW



- Vegetation within the FortisBC ROW must comply with Fortis Standards. No trees exceeding a maturity height of 1.8 Meters.
- Vehicle traffic or parking is not permitted over, or within 3.0 meters of the FortisBC pipeline without an engineering assessment, pipeline inspection and possible upgrading and approved permit. (Developer's cost)
- A FortisBC approved Permit is required prior to completing any construction activity within the FortisBC ROW.

Please be advised FortisBC has no objections in regards to the above mentioned referral. There may be a possibility the existing service may need to be altered.

#### 6.8 Telus Communications

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

#### 7.0 Application Chronology

Date of Application Received: September 28, 2012

#### Report prepared by:



James Moore, Land Use Planner

#### Reviewed by:



Todd Cashin Manager, Manager, Environment & Land Use

#### Approved for Inclusion:



Shelley Gambacort, Director, Land Use Management

#### Attachments:

Subject Property Map

Schedule "A" - Highway Dedication Plan

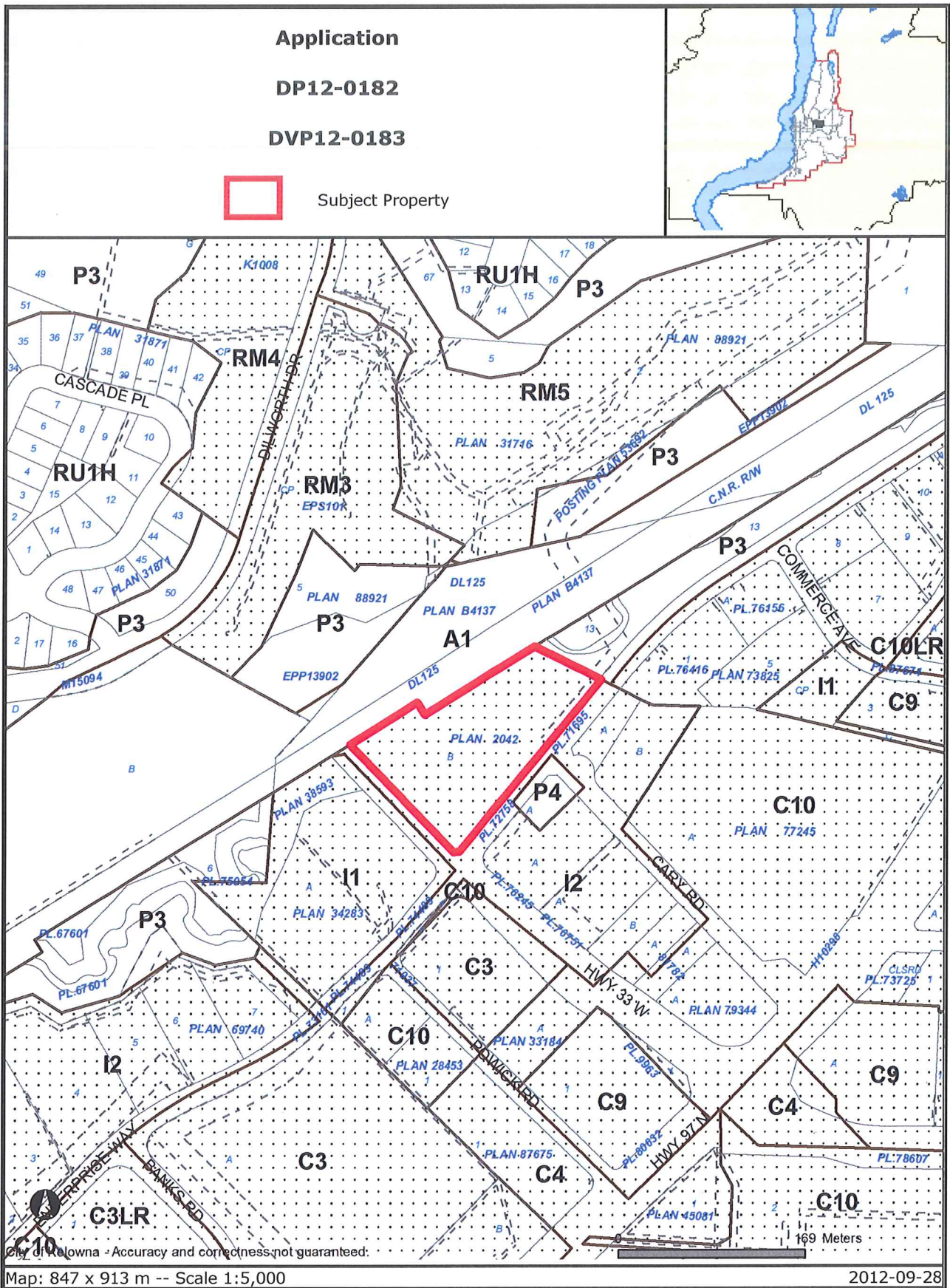
Proposed Site Plan

Conceptual Elevations

Development Engineering Memorandum, dated October 15, 2012

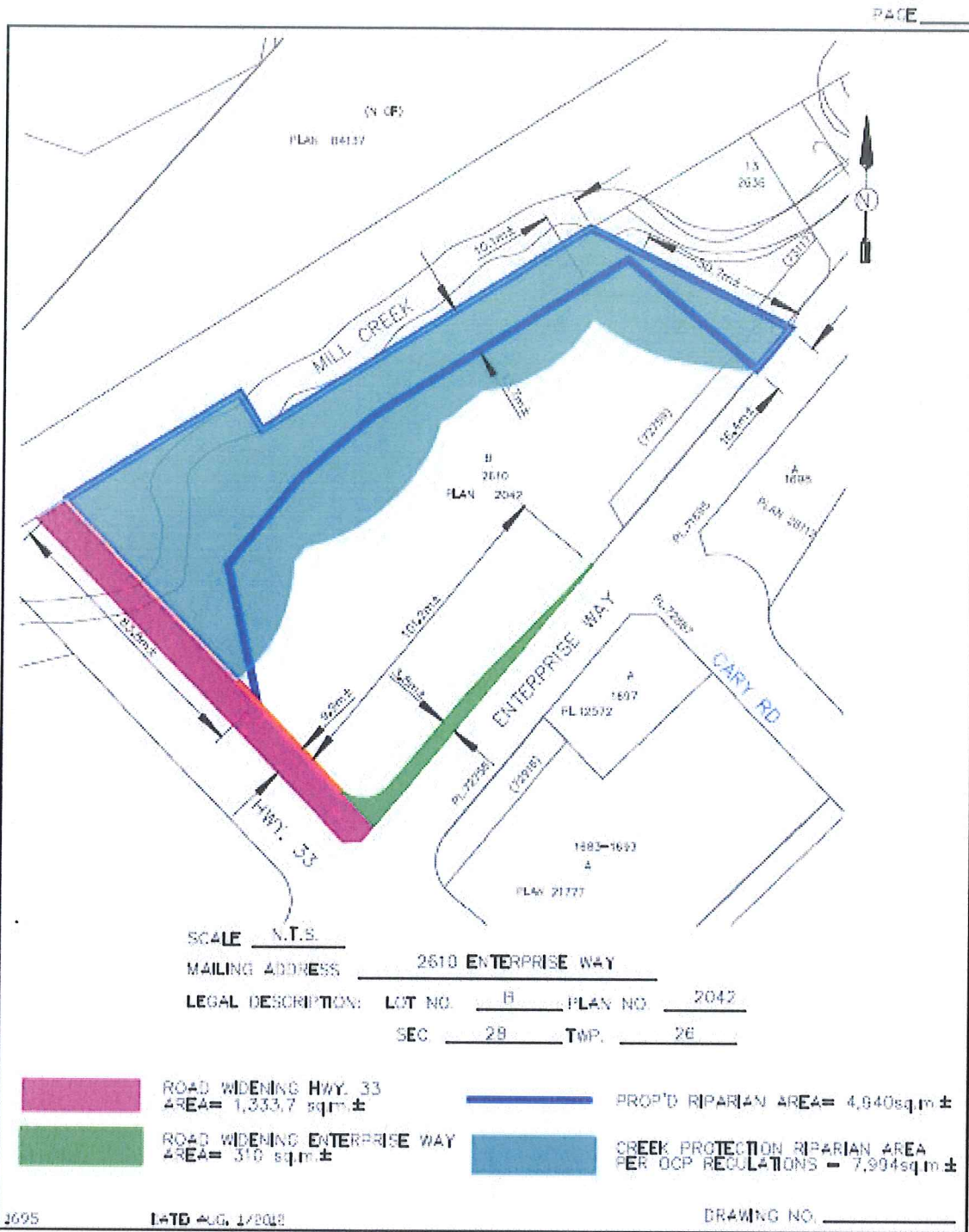
DRAFT Development Variance Permit

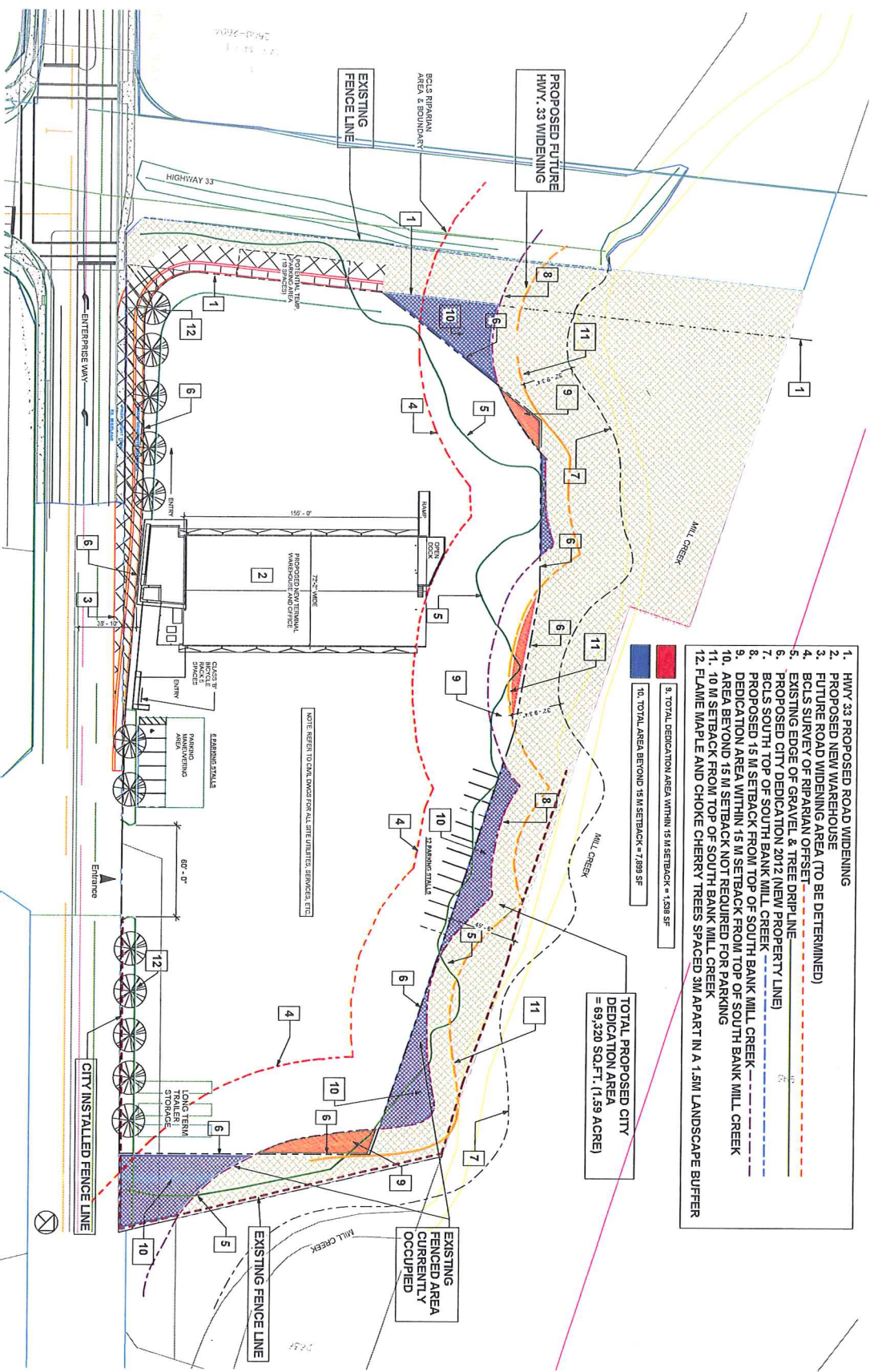






**“Schedule A” – Sketch Plan showing Highway Dedication  
And Area of New Parcel**





1. HWY 33 PROPOSED ROAD WIDENING
2. PROPOSED NEW WAREHOUSE
3. FUTURE ROAD WIDENING AREA (TO BE DETERMINED)
4. BCLS SURVEY OF RIPARIAN OFFSET
5. EXISTING EDGE OF GRAVEL & TREE DRIP LINE
6. PROPOSED CITY DEDICATION 2012 (NEW PROPERTY LINE)
7. BCLS SOUTH TOP OF SOUTH BANK MILL CREEK
8. PROPOSED 15 M SETBACK FROM TOP OF SOUTH BANK MILL CREEK
9. DEDICATION AREA WITHIN 15 M SETBACK FROM TOP OF SOUTH BANK MILL CREEK
10. AREA BEYOND 15 M SETBACK NOT REQUIRED FOR PARKING
11. 10 M SETBACK FROM TOP OF SOUTH BANK MILL CREEK
12. FLAME MAPLE AND CHOKE CHERRY TREES SPACED 3M APART IN A 1.5M LANDSCAPE BUFFER

9. TOTAL DEDICATION AREA WITHIN 15 M SETBACK = 1,528 SF  
 10. TOTAL AREA BEYOND 15 M SETBACK = 7,899 SF

TOTAL PROPOSED CITY DEDICATION AREA = 69,320 SQ.FT. (1.59 ACRE)

NOTE: REFER TO DRAWINGS FOR ALL THE UTILITIES, SERVICES, ETC.

PROPOSED SITE PLAN (PREVIOUS SUBMITTAL)

1.0

A

PROPOSED SITE PLAN



VAN KAM FREIGHTWAYS LTD.

NEW TERMINAL

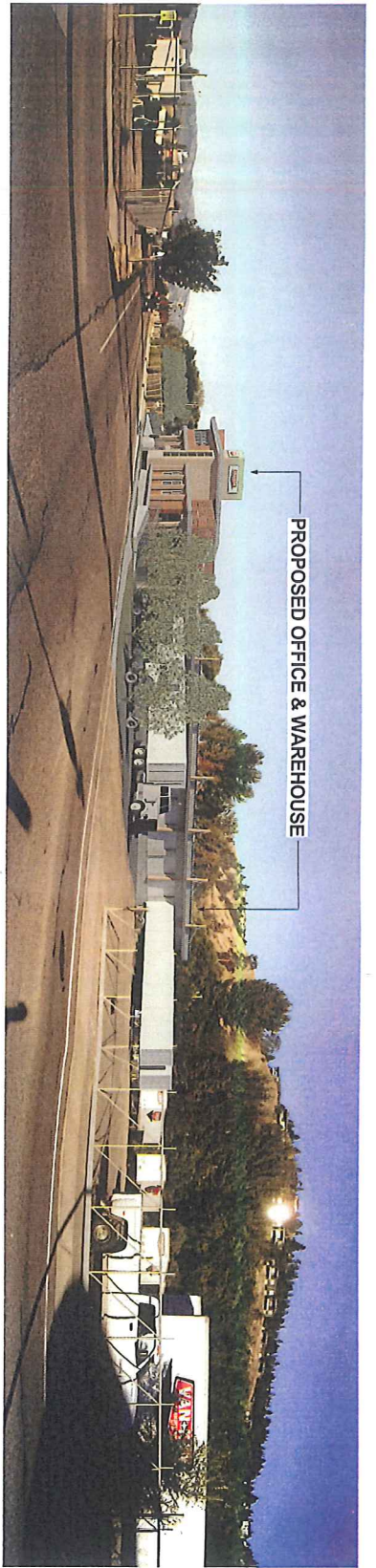
2610 ENTERPRISE WAY, KELOWNA, BC V1X 7Y5



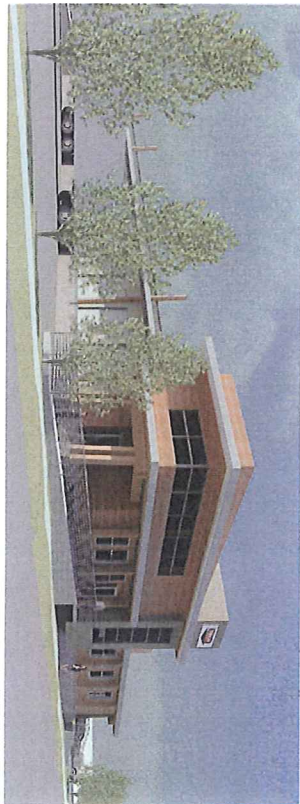
ARCHITECTURAL & ENGINEERING  
 1000 Lakeshore Blvd., Kelowna, BC V1Y 2B1  
 Tel: 250.860.1111  
 Fax: 250.860.1112  
 Email: info@ahg.ca  
 Website: www.ahg.ca

JOHN QUINN ARCHITECT INC.  
 1000 Lakeshore Blvd., Kelowna, BC V1Y 2B1  
 Tel: 250.860.1111  
 Fax: 250.860.1112  
 Email: info@johnquinn.ca  
 Website: www.johnquinn.ca

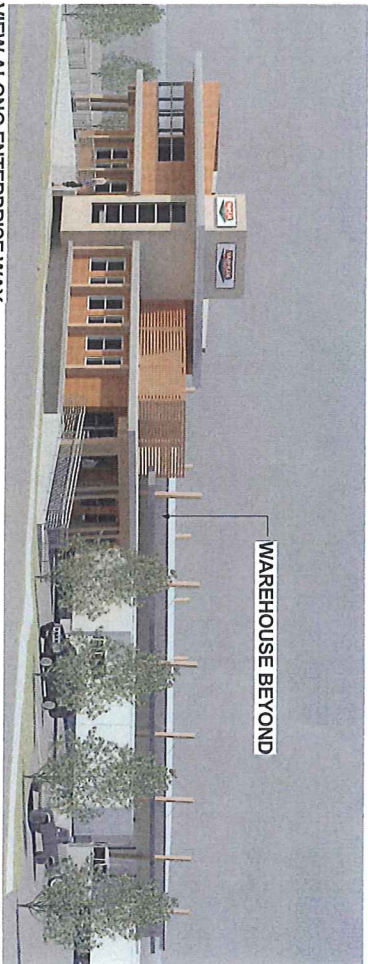




VIEW LOOKING SOUTH EAST ALONG ENTERPRISE WAY



VIEW LOOKING NORTH WEST ALONG ENTERPRISE WAY



VIEW ALONG ENTERPRISE WAY

9/26/2012 3:19:44 PM

JOHN CHAM ARCHITECT INC.  
 2001 LAMAR AVE., BURNING BUSH, BC V1W 1S3  
 TEL: 604-833-8888  
 WWW.JOHNCHAMARCHITECT.COM

MEMBER OF THE VAN KAM ARCHITECTURAL GROUP  
**PHG**  
 PHILIP H. GORDON  
 ARCHITECT & CONSULTANT  
 PHG@PHG3.COM

VAN KAM FREIGHTWAYS LTD.  
**NEW TERMINAL**  
 2610 ENTERPRISE WAY, KELOWNA, BC V1X 7Y5



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Project Number: 10.5x  
 Drawn By: JCH/PHG  
 Date: 09/25/12  
 Revision: 01  
 Scale: 1:1

RENDERINGS  
**A**  
**10.5x**

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CITY OF KELOWNA  
**MEMORANDUM**

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**Date:** October 15, 2012  
**File No.:** DVP12-0183  
**To:** Land Use management (JM)  
**From:** Development Engineering Manager (SM)  
**Subject:** 2610 Enterprise Way – Van Kam property. Lot B, Plan 2042 D.L. 125 ODYD

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Development Engineering servicing issues and requirements regarding this development variance permit application are as follows:

1. General.

The reduced front yard setback and the landscaping buffer reduction do not compromise any Municipal infrastructure.



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Steve Muenz, P. Eng.  
Development Engineering Manager

BB



# CITY OF KELOWNA

## APPROVED ISSUANCE OF A:

Development Variance Permit No.:            DVP11-0183

EXISTING ZONING DESIGNATION:	I2 - General Industrial
DEVELOPMENT VARIANCE PERMIT:	<ul style="list-style-type: none"> <li>- Vary minimum front yard setback from 7.5m permitted to 0.3m (to the outermost projection of the building or structure);</li> <li>- Vary the minimum landscape buffer for the front lot line of I2 zoned properties from Level 2 required to Level 1 proposed, for the length of the building face;</li> <li>- Vary the minimum landscape buffer for industrial zoned properties adjacent to non-industrial zoned properties from Level 3 required to Level 1 proposed, for the length of the building face;</li> <li>- Vary the minimum off-street parking requirement from 28 stalls required to 18 stalls proposed.</li> </ul>

ISSUED TO:	Montague Holdings Limited
LOCATION OF SUBJECT SITE:	2610 Enterprise Way

	LOT	DISTRICT LOT	PLAN	DISTRICT
LEGAL DESCRIPTION:	That Part of Lot B lying South of the right of ways as shown on Plan 2042	125	2042, except: - that Part outlined in Red on Plan B5087; - Plans 9963, 12572, 20426, 21777 and KAP72758.	ODYD

### SCOPE OF APPROVAL

This Permit applies to and only to those lands within the Municipality as described above, and any and all buildings, structures and other development thereon.

This Permit is issued subject to compliance with all of the Bylaws of the Municipality applicable thereto, except as specifically varied or supplemented by this Permit, noted in the Terms and Conditions below.

Applicants for Development and Development Variance Permit should be aware that the issuance of a Permit limits the applicant to be in strict compliance with regulations of the Zoning Bylaw or Subdivision Control Bylaw unless specific Variances have been authorized by the Permit. No implied Variances from bylaw provisions shall be granted by virtue of drawing notations which are inconsistent with bylaw provisions and which may not have been identified as required Variances by the applicant or City staff.

1. TERMS AND CONDITIONS:

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

Section 7.6.9(c): Minimum Landscape Buffers

To vary the minimum landscape buffer for industrial zone properties located adjacent to non-industrial zone properties from Level 3 required to Level 1 proposed, for the length of the building face (as per Schedule "A");

Table 7.1: Minimum Landscape Buffer Treatment Levels Schedule

To vary the minimum landscape buffer for the front yard of a property zoned I2 from Level 2 required to Level 1 proposed, for the length of the building face (as per Schedule "A");

Section 15.2.5(d): Development Regulations

To vary the minimum front yard setback from 7.5m required to 0.3m proposed (as per Schedule "A");

Table 8.1: Parking Schedule

To vary the minimum off-street parking requirement from 28 permitted to 18 proposed (as per Schedule "A").

2. The development shall commence by and in accordance with an approved Building Permit within ONE YEAR of the date of the Municipal Council authorization resolution.

3. PERFORMANCE SECURITY:

As a condition of the issuance of this Permit, Council is holding the security set out below to ensure that development is carried out in accordance with the terms and conditions of this Permit. Should any interest be earned upon the security, it shall accrue to the Permittee and be paid to the Permittee if the security is returned. The condition of the posting of the security is that should the Permittee fail to carry out the development hereby authorized, according to the terms and conditions of this Permit within the time provided, the Municipality may use the security to carry out the work by its servants, agents or contractors, and any surplus shall be paid over to the Permittee, or should the Permittee carry out the development Permitted by this Permit within the time set out above, the security shall be returned to the Permittee. There is filed accordingly:

- (a) Cash in the amount of \$       N/A      .
- (b) A Certified Cheque in the amount of \$       N/A      .
- (c) An Irrevocable Letter of Credit in the amount of \$       N/A      .

Before any bond or security required under this Permit is reduced or released, the Developer will provide the City with a statutory declaration certifying that all labour, material, workers' compensation and other taxes and costs have been paid.

4. DEVELOPMENT:

The land described herein shall be developed strictly in accordance with the terms and conditions and provisions of this Permit and any plans and specifications attached to this Permit which shall form a part hereof.

If the Permittee does not commence the development Permitted by this Permit within one year of the date of this Permit, this Permit shall lapse.

This Permit is not transferrable unless specifically Permitted by the Municipality. The authorization to transfer the Permit shall, if deemed acceptable, be granted by Council resolution.

**THIS Permit IS NOT A BUILDING Permit.**

5. APPLICANT'S AGREEMENT:

I hereby declare that all the above statements and the information contained in the material submitted in support of this Permit are to the best of my belief, true and correct in all respects. Upon issuance of the Permit for me by the Municipality, then in such case, I covenant and agree to save harmless and effectually indemnify the Municipality against:



- (a) All actions and proceedings, costs, damages, expenses, claims, and demands whatsoever and by whomsoever brought, by reason of the Municipality granting to me the said Permit.
- (b) All costs, expenses, claims that may be incurred by the Municipality if the construction by me of engineering or other types of works as called for by the Permit results in damages to any property owned in whole or in part by the Municipality or which the Municipality by duty or custom is obliged, directly or indirectly in any way or to any degree, to construct, repair, or maintain.

I further covenant and agree that should I be granted a Development Permit or Development Variance Permit, the Municipality may withhold the granting of any occupancy Permit for the occupancy and/or use of any building or part thereof constructed upon the hereinbefore referred to land until all of the engineering works or other works called for by the Permit have been completed to the satisfaction of the Municipal Engineer and Director of Land Use Management.

Should there be any change in ownership or legal description of the property, I undertake to notify the Land Use Management Department immediately to avoid any unnecessary delay in processing the application.

**I HEREBY UNDERSTAND AND AGREE TO ALL THE TERMS AND CONDITIONS SPECIFIED IN THIS PERMIT.**

\_\_\_\_\_  
Signature of Owner/Authorized Agent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name in Bold Letters

\_\_\_\_\_  
Telephone No.

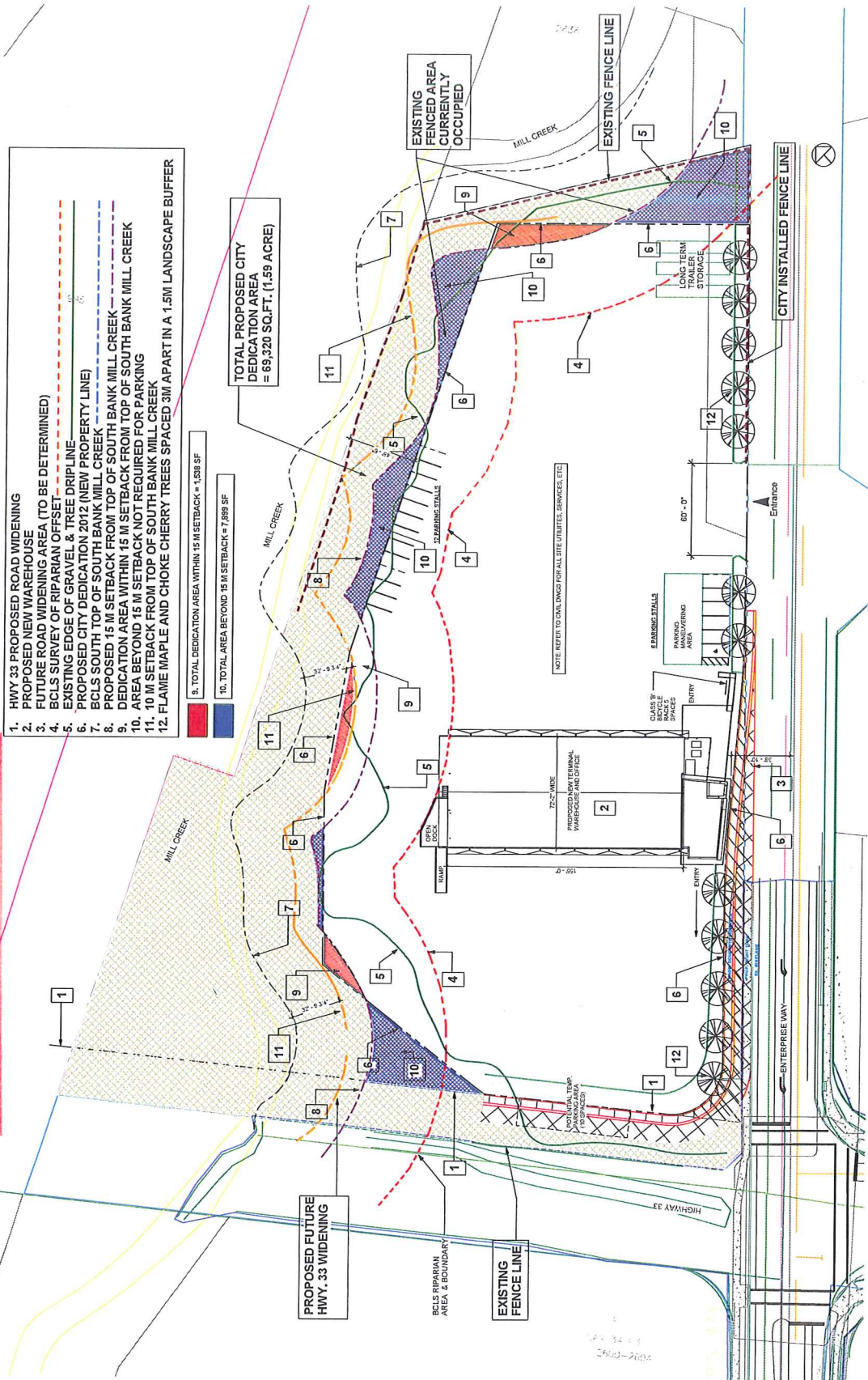
5. APPROVALS:

AUTHORIZING RESOLUTION PASSED BY THE MUNICIPAL COUNCIL THE \_\_\_ DAY OF NOVEMBER, 2012.

ISSUED BY THE DIRECTOR OF LAND USE MANAGEMENT OF THE CITY OF KELOWNA THE \_\_\_ DAY OF NOVEMBER, 2012.

\_\_\_\_\_  
Shelley Gambacort  
Director of Land Use Management

**SCHEDULE A**  
 This forms part of development  
 Permit # DVP 12-0183



1. HWY 33 PROPOSED ROAD WIDENING
2. PROPOSED NEW WAREHOUSE
3. FUTURE ROAD WIDENING AREA (TO BE DETERMINED)
4. BCLS SURVEY OF RIPARIAN OFFSET
5. EXISTING EDGE OF GRAVEL & TREE DRIPLINE
6. PROPOSED CITY DEDICATION 2012 (NEW PROPERTY LINE)
7. BCLS SOUTH TOP OF SOUTH BANK MILL CREEK
8. PROPOSED 15 M SETBACK FROM TOP OF SOUTH BANK MILL CREEK DEDICATION AREA WITHIN 15 M SETBACK FROM TOP OF SOUTH BANK MILL CREEK
9. AREA BEYOND 15 M SETBACK NOT REQUIRED FOR PARKING
10. 10 M SETBACK FROM TOP OF SOUTH BANK MILL CREEK
11. 10 M SETBACK FROM TOP OF SOUTHERN CHERRY TREES SPACED 3M APART IN A 1.5M LANDSCAPE BUFFER
12. FLAME MAPLE AND CHOKE CHERRY TREES SPACED 3M APART IN A 1.5M LANDSCAPE BUFFER

9. TOTAL DEDICATION AREA WITHIN 15 M SETBACK = 1,538 SF  
 10. TOTAL AREA BEYOND 15 M SETBACK = 7,899 SF

TOTAL PROPOSED CITY DEDICATION AREA = 69,320 SQ.FT. (1.59 ACRE)

NOTE: REFER TO CALLINGS FOR ALL SITE UTILITIES, SERVICES, ETC.

DPH CLARK ARCHITECT INC  
 1000 Lakeshore Blvd., Suite 207, West Vancouver, BC V8V 1P2  
 Tel: 779-0111  
 Fax: 779-0112

**AHC**  
 AHC GROUP  
 2610 ENTERPRISE WAY, KELOWNA, BC V1X 7Y5  
 TEL: 250-868-2222  
 WWW.AHC1993.COM

VAN KAM FREIGHTWAYS LTD.  
 NEW TERMINAL  
 2610 ENTERPRISE WAY, KELOWNA, BC V1X 7Y5



Project Number: 1000000000  
 Revised For: DP APPROVAL  
 Date: 08/17/12  
 Station: 0001  
 Drawn: [Name]  
 Checked: [Name]

PROPOSED SITE PLAN  
 A  
 1.0

1. PROPOSED SITE PLAN (PREVIOUS SUBMITTAL)