

City of Kelowna

Regular Council Meeting

AGENDA



Monday, October 30, 2017
1:30 pm
Council Chamber
City Hall, 1435 Water Street

Pages

1. Call to Order

This meeting is open to the public and all representations to Council form part of the public record. A live audio and video feed is being broadcast and recorded by CastaNet and a delayed broadcast is shown on Shaw Cable.

2. Confirmation of Minutes

4 - 8

PM Meeting - October 23, 2017

3. Development Application Reports & Related Bylaws

3.1 405 Poplar Point Dr, Z17-0068 - Frederick Hamel

9 - 64

The Mayor to invite the Applicant, or Applicant's Representative, to come forward.

To consider a staff recommendation to NOT rezone the subject property that would facilitate the construction of a second dwelling.

3.2 1040 Old Vernon, A16-0011 - Benson Law LLP

65 - 127

The Mayor to invite the Applicant, or Applicant's Representative, to come forward.

To consider a staff recommendation NOT to support an application requesting permission from the Agricultural Land Commission (ALC) for a Non-Farm Use for wood and concrete recycling.

3.3 982 Old Vernon Rd, A17-00003 - Jeetender Kandola and Manraj Kandola

128 - 195

To support an application to the Agricultural Land Commission for a Non-Farm Use to operate a composting and storage facility for boats, recreational vehicles and a tree service company, not to exceed a combined 7700m square metres on the subject property, under the conditions of a Temporary Use Permit.

4. Bylaws for Adoption (Development Related)

4.1 TA17-0009 (BL11426) - Multiple Dwelling Housing Amendments 196 - 196

To adopt Bylaw No. 11426 in order to amend the definition for "Multiple Dwelling Housing" in the Zoning Bylaw No. 8000.

4.2 2673 Gore St, Z17-0025 (BL11427) - Stanley Tessmer 197 - 197

To adopt Bylaw No. 11427 in order to rezone the subject property from RU6 - Two Dwelling Housing zone to the RM5 - Medium Density Multiple Housing zone.

5. Non-Development Reports & Related Bylaws

5.1 1745 Chapman Place - Amend Revitalization Tax Exemption Agreement 198 - 215

To amend the Revitalization Tax Exemption (RTE) Agreement with Ki-Low-Na Friendship Society for purpose-built rental housing in accordance with Revitalization Tax Exemption Program Bylaw No. 9561.

5.2 New Purchasing Bylaw No. 11477 216 - 217

To Provide council with information of the proposed changes within the new Purchasing Bylaw No. 11477 and forward it for initial consideration and rescind the current Purchasing Bylaw No. 9590.

5.3 BL11477 - Purchasing Bylaw 218 - 220

To give Bylaw No. 11477 first, second and third readings in order to create a new Purchasing Bylaw.

5.4 Good Neighbour Bylaw 221 - 239

For Council to consider the adoption of a new Good Neighbour Bylaw.

5.5 BL11500 - Good Neighbour Bylaw 240 - 249

To give Bylaw No. 11500 first, second and third readings in order to establish a new Good Neighbour Bylaw.

5.6 BL11503 - Amendment No. 18 to Bylaw Notice Enforcement Bylaw No. 10475 250 - 257

To give Bylaw No. 11503 first, second and third readings in order to amend Bylaw Notice Enforcement Bylaw No. 10475.

5.7 Corporate Sponsorship & Advertising Policy, No. 376 258 - 271

To set policy and guide the work of the Corporate Sponsorship & Advertising pilot program for the City of Kelowna, which will seek to generate revenue through qualified sponsorships to enhance facilities and services for residents.

5.8	Community Engagement Process – Agricultural Water Rate Design	272 - 284
	To receive Council's approval to proceed with the engagement strategy to inform consideration of a new water rate design for agricultural customers.	
5.9	Grant Application to the National Trade Corridor Fund for the Okanagan Gateway Transportation Plan	285 - 289
	To receive Council's approval for the City of Kelowna's portion of the funding for the Okanagan Gateway Transportation Plan in order to submit a grant application to the 2017 National Trade Corridor Fund program.	
6.	Resolutions	
6.1	Draft Resolution, re: 2018 Council Meeting Schedule	290 - 291
	To adopt the 2018 Council Meeting Schedule.	
6.2	Draft Resolution, re: Rescindment and Appointment to the Regional District of Central Okanagan's Board of Directors	292 - 292
	To appoint Councillor Hodge as a director to the Regional District's Board of Directors.	
7.	Bylaws for Adoption (Non-Development Related)	
7.1	BL10741 - Amendment No. 9 to Solid Waste Management Regulation Bylaw No. 10106	293 - 299
	To adopt Bylaw No. 10741 in order to amend the Solid Waste Management Regulation Bylaw No. 10106.	
7.2	BL11439 - Amendment No. 35 to Sewerage System User Bylaw No. 3480	300 - 301
	To adopt Bylaw No. 11439 in order to amend the Sewerage System User Bylaw No. 3480.	
7.3	BL11497 - Road Closure Bylaw - Portion of Lane Adjacent to Gaston Ave	302 - 303
	Mayor to invite anyone in the public gallery who deems themselves affected by the proposed road closure to come forward.	
	To adopt Bylaw No. 11497 in order to close a portion of lane adjacent to Gaston Ave.	
8.	Mayor and Councillor Items	
9.	Termination	



City of Kelowna Regular Council Meeting Minutes

Date: Monday, October 23, 2017
Location: Council Chamber
City Hall, 1435 Water Street

Members Present Mayor Colin Basran, Councillors Maxine DeHart, Ryan Donn, Gail Given Tracy Gray, Charlie Hodge, Brad Sieben, Mohini Singh and Luke Stack*

Staff Present Acting City Manager, Doug Gilchrist; City Clerk, Stephen Fleming, Divisional Director, Corporate & Protective Services, Rob Mayne*; Urban Planning Manager, Terry Barton*; Suburban & Rural Planning Manager, Todd Cashin*; Planner Specialist, Melanie Steppuhn*; Revenue Supervisor, Angie Schumacher*; Legislative Coordinator (Confidential), Arlene McClelland

(* denotes partial attendance)

1. Call to Order

Mayor Basran called the meeting to order at 1:31 p.m.

Mayor Basran advised that the meeting is open to the public and all representations to Council form part of the public record. A live audio and video feed is being broadcast and recorded by CastaNet and a delayed broadcast is shown on Shaw Cable.

2. Confirmation of Minutes

Moved By Councillor Singh/Seconded By Councillor Gray

R858/17/10/23 THAT the Minutes of the Regular Meetings of October 16, 2017 be confirmed as circulated.

Carried

3. Public in Attendance

3.1 Interior Health Authority

Dr. Silvina Mema, Medical Health Officer, IHA; Corinne Dolman, Mobile Supervised Consumption Services Manager; Dr. Trevor Corneil, VP Population Health & Chief Medical Health Officer and John Yarschenko, Health Services Administrator

- Delegation introduced themselves.
- Displayed a PowerPoint Presentation providing an update on the opioid crisis in Kelowna.
- Spoke the varying social economic demographics that this crisis affects and noted that there is a misconception that only marginalized society is affected; need to relay that information to the public.

- Suggested a Kelowna based approach and a solution that is specific to the community.
- Responded to questions from Council.

Moved By Councillor Gray/Seconded By Councillor Hodge

R859/17/10/23 THAT Council receive the Presentation by Dr. Silvina Mema dated October 23, 2017.

Carried

4. Development Application Reports & Related Bylaws

4.1 3317 McCulloch Road, A17-0006 - Calvin Kuipers

Staff:

- Displayed a PowerPoint Presentation providing rationale for non-support of the application and responded to questions from Council.

Calvin Kuipers, Applicant

- Provided financial statistics showing how the RV Park generates income to offset farming expenses and losses from 2009 to 2017.
- The RV Park is needed to finance the farming operations on site.
- Stated that the RV site is not suitable for farming.
- Has owned the property for 27 years and actively farming the entire property including grapes, a vineyard, a market garden, alpacas, sheep and chickens.
- Believes the RV site will not harm adjacent farm operations.
- Responded to questions from Council.

Staff:

- Responded to questions from Council.

Moved By Councillor Stack/Seconded By Councillor Sieben

R860/17/10/23 THAT Agricultural Land Reserve Appeal No. A17-0006 for Lot B Section 3 TWP 26 ODYD Plan 32710, located at 3317 McCulloch Rd, Kelowna for a subdivision of agricultural land in the Agricultural Land Reserve pursuant to Section 20(3) of the Agricultural Land Commission Act, NOT be supported by Council;

AND THAT Council directs Staff NOT to forward the subject application to the Agricultural Land Commission for consideration.

Carried

4.2 486 Cadder Ave, HRA17-0002 - Dr. Alan Broome Inc.

Staff:

- Displayed a PowerPoint Presentation summarizing the application.

Moved By Councillor Given/Seconded By Councillor Donn

R861/17/10/23 THAT Council consider a Bylaw which would authorize the City of Kelowna to enter into a Heritage Revitalization Agreement for the property legally known as Lot 1, District lot 14, ODYD, Plan KAP69061 located at 486 Cadder Avenue, Kelowna, BC, in the form attached as Attachment "A" to the Report from the Community Planning Department dated October 16, 2017;

AND THAT the Heritage Revitalization Agreement Authorization Bylaw be forwarded to a Public Hearing for further consideration;

AND FURTHER THAT upon adoption of the Heritage Revitalization Agreement Authorization Bylaw, Heritage Revitalization Agreement Authorization Bylaw No. 7789 and all amendments thereto, be repealed.

Carried

4.3 486 Cadder Ave, BL11495 (HRA17-0002) - Dr. Alan Broome Inc.

Moved By Councillor Hodge/Seconded By Councillor Gray

R862/17/10/23 THAT Bylaw No. 11495 be read a first time.

Carried

4.4 4623 Gordon Dr, Z17-0052 - 1104166 BC Ltd Inc.

Staff:

- Displayed a PowerPoint Presentation summarizing the application.

Moved By Councillor Singh/Seconded By Councillor DeHart

R863/17/10/23 THAT Rezoning Application No. Z17-0052 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 1, District Lot 357, ODYD, Plan KAP4626g located at 4623 Gordon Drive, Kelowna, BC from the RU1 – Large Lot Housing zone to the RU6 – Two Dwelling Housing zone, be considered by Council;

AND FURTHER THAT the Rezoning Bylaw be forwarded to a Public Hearing for further consideration.

Carried

4.5 4623 Gordon Dr, BL11505 (Z17-0052) - 1104166 BC Ltd Inc.

Moved By Councillor Given/Seconded By Councillor Hodge

R864/17/10/23 THAT Bylaw No. 11505 be read a first time.

Carried

5. Non-Development Reports & Related Bylaws

5.1 Renewal of Uptown Rutland Business Improvement Area

Staff:

- Introduced URBA President, Mike Koutsantonis and Executive Director, Laurel D'Andrea

Mike Koutsantonis, URBA President and Laurel D'Andrea, Executive Director

- Displayed a PowerPoint Presentation summarizing the activities of the Uptown Rutland Business Association and providing reasons for the renewal of funding request.
- Responded to questions from Council.

Moved By Councillor Sieben/Seconded By Councillor Gray

R865/17/10/23 THAT Council approve the renewal of a specified area for the purpose of annually funding, over a 5 year period, the Uptown Rutland Business Improvement Area pursuant to Sections 215 of the Community Charter, for the properties included within the

boundary as outlined on Schedule "A" to the Report of the Revenue Supervisor dated October 23, 2017;

AND THAT Bylaw 11504 being Uptown Rutland Business Improvement Area Bylaw be advanced for reading consideration;

AND FURTHER THAT 4:00 p.m., Monday, December 4, 2017 be set as the deadline for receipt of petitions against the proposed Uptown Rutland Business Improvement Area renewal bylaw.

Carried

5.2 BL11504 - Uptown Rutland Business Improvement Area 2018-2022 Bylaw

Moved By Councillor Gray/Seconded By Councillor Hodge

R866/17/10/23 THAT Bylaw No. 11504 be read a first, second and third time.

Carried

5.3 Closure and Sale of Excess Road Adjacent to John Hindle Drive

Moved By Councillor DeHart/Seconded By Councillor Singh

R867/17/10/23 THAT Council receives for information, the Report from the Manager, Real Estate Services, dated October 23, 2017, recommending that Council adopt the proposed closure of a portion of Curtis Road adjacent to (S OF) John Hindle Drive;

AND THAT Bylaw 11484, being proposed closure of a portion of Curtis Road adjacent to (S OF) John Hindle Drive, be given reading consideration;

AND FURTHER THAT the Mayor and City Clerk be authorized to execute all documents necessary to complete this transaction.

Carried

5.4 BL11484 - Road Closure and Removal of Hwy Dedication - Portion of John Hindle Drive

Moved By Councillor Stack/Seconded By Councillor DeHart

R868/17/10/23 THAT Bylaw No. 11484 be read a first, second and third time.

Carried

6. Bylaws for Adoption (Non-Development Related)

6.1 BL11445 - Amendment No. 6 to Development Applications Fees Bylaw No. 10560

Moved By Councillor DeHart/Seconded By Councillor Stack

R869/17/10/23 THAT Bylaw No. 11445 be adopted.

Carried

6.2 BL11492 - 2018 Permissive Tax Exemption Bylaw

Councillor Stack declared a conflict of interest as his employer applies for permissive tax exemptions and departed the meeting at 3:46 p.m.

Moved By Councillor DeHart/Seconded By Councillor Singh

R870/17/10/23 THAT Bylaw No. 11492 be adopted.

Carried

Councillor Stack rejoined the meeting at 3:36 p.m.

7. Mayor and Councillor Items

Councillor Gray:

- Made comment that the DKA After 5 Event takes place October 25th at the Laurel Packinghouse.

Councillor Hodge:

- Spoke to his attendance at the Haiti in my Heart Fundraiser Event at the Laurel Packing house on October 20th.
- Advised that he will be absent from Council for a few weeks.

Councillor DeHart:

- Made comment that the DKA After 5 Event takes place October 25th at the Laurel Packinghouse and is being sponsored by Global TV.

Councillor Stack

- Spoke to his attendance and proclamation, on behalf of the Mayor, at the bicentennial of the Birth of Bahá'u'lláh.

Mayor Basran:

- Spoke to his attendance along with Councillors Given, Singh and Stack, at the Opening of the new Chinatown signage in City Park identifying and explaining the role of the Chinese in the development of the City.

8. Termination

This meeting was declared terminated at 3:51 p.m.

Mayor

/acm

City Clerk

REPORT TO COUNCIL



Date: October 16, 2017

RIM No. 1250-30

To: City Manager

From: Community Planning Department (LB)

Application: Z17-0068

Owner: Frederick Hamel

Address: 405 Poplar Point Drive

Applicant: Kent-MacPherson Appraisals Inc.

Subject: Rezoning Application

Existing OCP Designation: S2RES – Single / Two Unit Residential

Existing Zone: RU1 – Large Lot Housing

Proposed Zone: RU6 – Two Dwelling Housing

1.0 Recommendation

THAT Rezoning Application No. Z17-0068 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot A District Lot 219 ODYD Plan EPP47591, located at 405 Poplar Point Drive, Kelowna, BC, from the RU1 – Large Lot Housing zone to the RU6 – Two Dwelling Housing zone NOT be considered by Council.

2.0 Purpose

To consider a staff recommendation to NOT rezone the subject property that would facilitate the construction of a second dwelling.

3.0 Community Planning

Staff do not support the request to rezone the property to the RU6 – Two Dwelling Housing zone due to geotechnical, environmental and visual impact concerns. The property's steep slopes do not allow for further development without significant disturbance to the existing site, and a second house could not be constructed in a way that meets conditions outlined in the geotechnical review as well as City bylaws, policies and guidelines. Development of the site would require altering the existing slopes and removing mature trees and vegetation, which both contribute to concerns regarding slope stability and the visual impact of hillside development.

Geotechnical Investigation

The applicant submitted a Geotechnical Hazard Review (dated December 4, 2013) and Additional Geotechnical Comments (dated June 28, 2017) as part of the rezoning application. Both documents consider and provide recommendations on the conditions needed to build a second house on the property, including matters pertaining to siting, foundation design, drainage, and hazardous conditions. The 2017 comments build on the 2013 review as it relates to the subject rezoning application.

The 2013 review identifies the northeast portion of the property as the only suitable location for further development, assuming several conditions can be met to mitigate the risks of hazardous conditions, particularly slope instability. The documents identify the following conclusions to reduce risk and meet the City's requirements regarding geotechnical hazards:

- Connect the foundation to competent solid bedrock;
- Conduct additional geotechnical investigation to determine depth of bedrock;
- Collect all drainage water and direct off-site;
- Limit disturbance to existing slopes;
- Observe and review movement or rock fall of slope above Herbert Heights Road; and
- Prohibit any irrigation around the proposed development.

Staff reviewed the proposal and submission documents and are concerned that the above-noted measures cannot all be met in conjunction with each other, some recommendations do not meet City bylaws, and some measures will be difficult to enforce. These concerns are described in further detail below.

Bedrock & Foundation Design

The geotechnical assessments recommend connecting the foundation to competent bedrock to adequately support the foundation and to limit the load to the slope to reduce the risk of a slide. The review suggests the bedrock may be 15 m below current grade and that further investigation is needed to determine the actual depth and provide more detailed recommendations for foundation design. The drilling and work needed to connect a foundation to underlying bedrock would cause significant disturbance to the existing slopes and vegetation in and around the proposed development area.

Drainage & Irrigation

Soil saturation contributes to slope instability, making appropriate site drainage critical to develop safely and address potential risks around steep slopes. The 2017 Additional Geotechnical Comments states that "...it is intended to capture all site drainage water and direct it to the local storm system" and that all water should be piped "...to the storm system or another suitable location downhill and away from the slope." The City's piped storm system does not extend to this area, ending approximately 900 m away at the intersection of Cambridge Avenue and Ellis Street.

Without City storm sewer available, the only portion of the site that could be considered for the collection and release of storm water in accordance with City bylaws is the low, flat area along Poplar Point Drive. The geotechnical review does not speak to the suitability of using this area for this purpose, and it should be noted it is a low-lying area, only 2 to 3 m in elevation above the shoreline of Okanagan Lake. Should a storm water management plan determine this to be a feasible option, piping storm water down the slope would cause disturbance to the existing slope and vegetation in the centre of the site, which conflicts with the geotechnical recommendation to limit slope disturbance. It should also be noted that all of the storm

services that do exist in this quadrant of the City's North End were completely saturated during the 2017 flood event.

The geotechnical assessment further recommends that to limit soil saturation on and above the steep slopes, no irrigation should be used around the development area. Staff agree this is important; however, it is impossible to enforce.

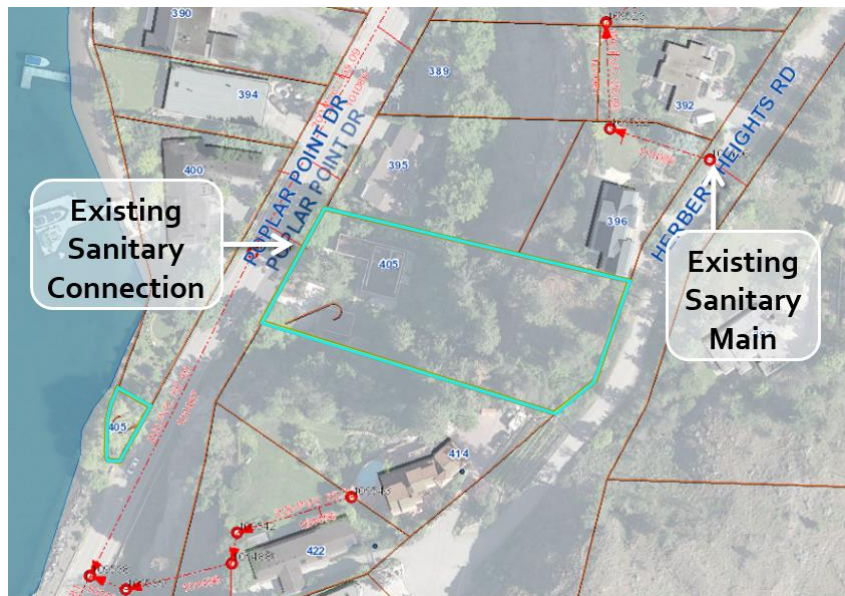
Policy Context & Infrastructure

Broadly speaking, Kelowna's Official Community Plan (OCP) promotes new development in already built-up areas, particularly Urban Centres, and seeks to make use of existing infrastructure to reduce greenfield development. OCP goals, objectives and policies highlight the importance of containing growth and creating more compact urban areas. While the subject property is outside of an Urban Centre, it is within the Permanent Growth Boundary in an area that generally has most urban services. Policy objectives must be considered in light of other policies and the specific site context, including access and connectivity, infrastructure impacts, and natural features.

OCP Policy 5.15.12 prohibits development on steep slopes, which are considered to be 30% or greater. This policy serves both to minimize the visual impact of hillside development and to reduce risks around slope instability in hazardous condition areas. Slopes in the proposed development area of the subject property are generally around 40%, with the slopes below reaching 80%. Meeting the conditions of development would cause disturbance to these slopes, resulting in visual impacts as well as concerns with slope stability as per the geotechnical assessments.

The property can only be accessed via Poplar Point Drive and Herbert Heights Road, which are narrow roads that do not meet standard minimum right-of-ways and do not have sidewalks. The City does not currently have plans to widen either road.

With regard to site servicing, the existing house has water and sanitary sewer connections off Poplar Point Drive. To rezone, the applicant would be required to provide additional connections off Herbert Heights Road. Currently, sanitary sewer service along Herbert Heights Road ends at the north end of 396 Herbert Heights Road to the north, or at the south end of 414 Herbert Heights Road to the south, as shown in the image to the right. To limit site disturbance, the applicant would be required to extend the sanitary main along Herbert Heights Road from the north rather than extend the existing service from below.



Development Permits & Guidelines

The subject property is within both the Natural Environment and Hazardous Condition Development Permit (DP) Areas. The purpose of these DPs is generally to ensure that negative impacts on

environmentally sensitive areas are minimized, and to protect people, property and structures from damage while providing stable building sites around hazardous areas. Development of this property would require issuance of DPs, and staff are concerned the proposal will be unable to meet relevant DP guidelines such as:

- Avoiding disturbance to rock outcrops and steep slopes;
- Ensuring safe collection and conveyance of onsite drainage and diverting it away from steep slopes;
- Conserving existing trees and vegetation to provide for ecosystem connectivity and protect steep slopes; and
- Setting development back from top of slope.

Furthermore, while the concept plan shows the house built into the hillside, it does not meet several key principles of hillside development as per the City's Hillside Design Guidelines, namely preserving the natural hillside character, retaining significant natural features and landforms, and preserving slopes greater than 30% as undisturbed.

Council Policy No. 367

As staff understand it, the applicant completed neighbour notification in accordance with Council Policy No. 367. Between August 18, 2017 and August 23, 2017, the applicant spoke or left an information package with residents of properties within 50 m of the subject property. At the time of writing, staff has been contacted by several nearby residents with concerns about the proposed development.

4.0 Proposal

4.1 Background

In 2015, a subdivision was approved that afforded the subject property a small waterfront area by subdividing a portion of 400 Poplar Point Drive and hooking the lot across Poplar Point Drive. This subdivision granted the subject property direct waterfront access, the ability to have a dock, and riparian rights. A no disturbance covenant was registered to prohibit any development on the small lakefront portion of the lot on the west side of Poplar Point Drive.

At the time, the applicant also enquired about subdividing the main property into two lots, with one accessed from Poplar Point Drive and the other from Herbert Heights Road. While the proposed lots met the subdivision regulations for lot dimensions in the Zoning Bylaw, staff had significant concerns with hazardous conditions and buildable area, and the Subdivision Approving Officer was not supportive of the proposal. This rezoning application effectively achieves the same objective of building a second house on the property, and it could be stratified provided the existing house was improved to meet the BC Building Code.

4.2 Project Description

The application is to rezone the subject property to allow a second house to be built on the east side of the property, off Herbert Heights Road. The conceptual plan shows a three storey house with a proposed footprint of 3,350 sq ft. The proposed location for the development has steep slopes of approximately 40% with slopes of 80% below the proposed footprint. Access would be off Herbert Heights Road via a driveway with a switchback from the road into the property from the south.



Figure 1: Proposed Site Plan



Figure 2: Rendering in Neighbourhood Context



Figure 3: Massing & Hillside Context

No variances are being requested; however, should Council choose to support the rezoning proposal, staff would require more detailed plans with the expectation that all Bylaw regulations be met.

4.3 Site Context

The subject property is located between Poplar Point Drive and Herbert Heights Drive, within Kelowna's Central City Sector and the Permanent Growth Boundary. It is approximately 0.34 ha (0.83 ac) in area and currently has one single detached house fronting Poplar Point Drive.

A prominent slope forming part of the base of Knox Mountain runs through the property, and it rises in elevation from approximately 344 m along Poplar Point Drive to approximately 383 m along Herbert Heights Road. As shown in Figure 4 below, the property is relative flat in the western portion before rising steeply through the centre (grades of approximately 80%) and continuing to rise in the eastern portion (grades of approximately 40%) until it reaches Herbert Heights Road. City geotechnical mapping shows the property has moderate to high soil erosion potential as well as unstable terrain, consistent with the area topography and very steep slopes. Figures 5 and 6 show the soil erosion potential and terrain stability mapping for the area.

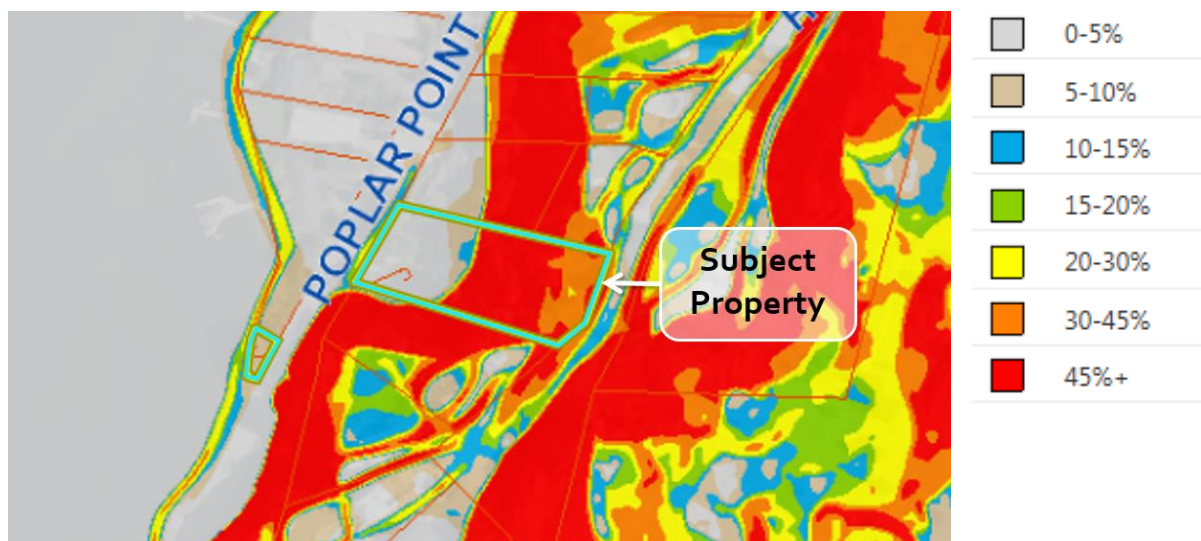


Figure 4: Slope Analysis

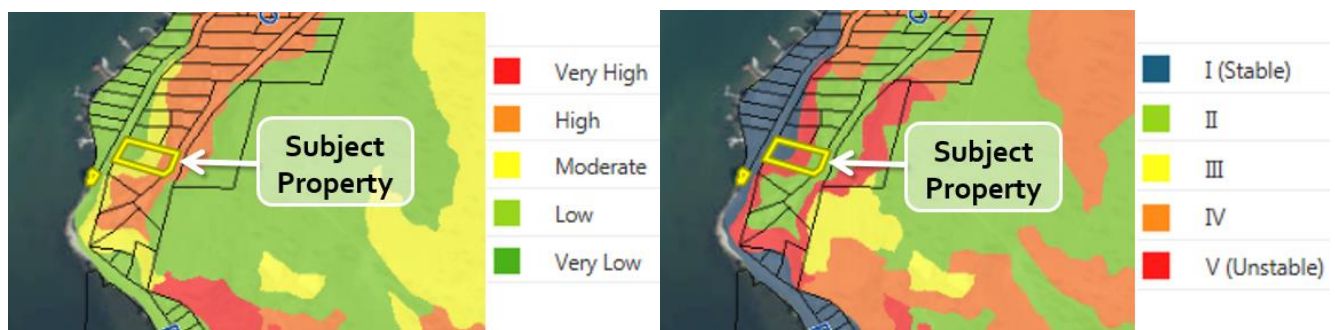


Figure 5: Soil Erosion Potential

Figure 6: Terrain Stability

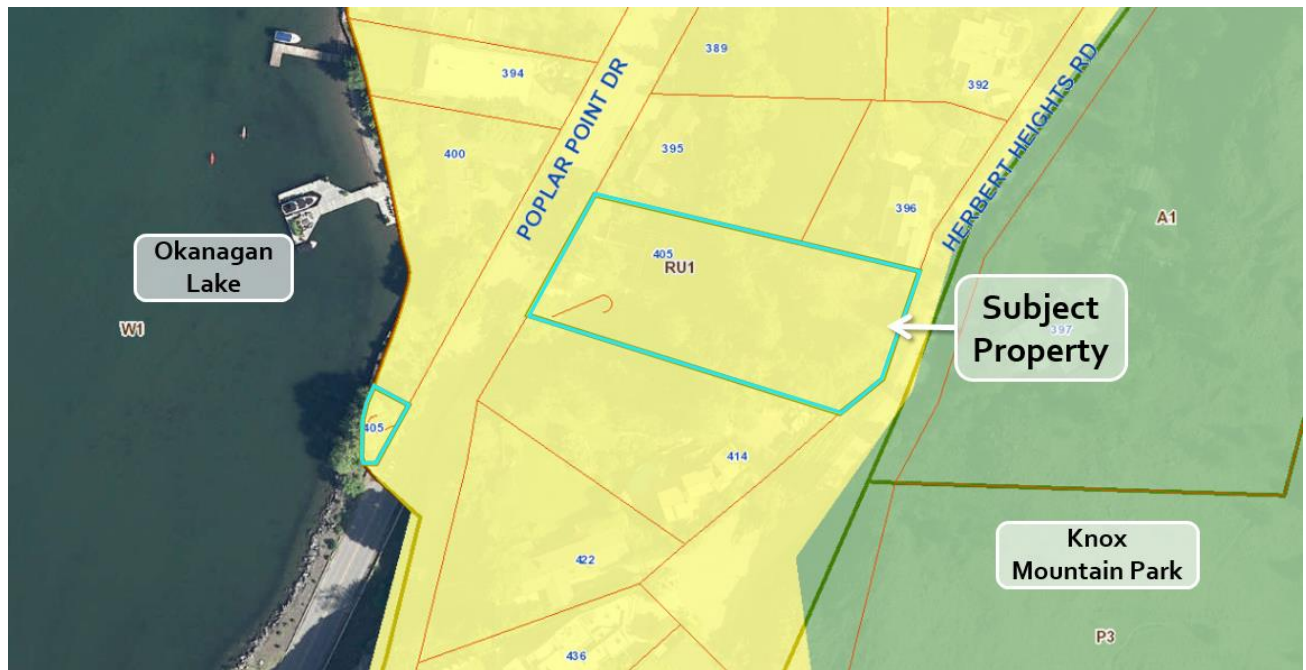
The surrounding area is characterized by large lot single dwelling housing, with Knox Mountain Park to the east and Okanagan Lake to the west. Adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	RU1 – Large Lot Housing	S2RES – Single / Two Unit Residential
East	A1 – Agriculture 1	PARK – Major Park / Open Space (Public)
South	RU1 – Large Lot Housing	S2RES – Single / Two Unit Residential
West	RU1 – Large Lot Housing	S2RES – Single / Two Unit Residential

Map 1: Subject Property



Map 2: Surrounding Area Context



4.4 Zoning Analysis Table

Zoning Analysis Table		
CRITERIA	RU6 ZONE REQUIREMENTS	PROPOSAL
Lot Area	700 m ²	3,351 m ²
Lot Width	18 m	35 m
Lot Depth	30 m	84 m

5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Chapter 5: Development Process

Policy 5.2.3 Compact Urban Form. Develop a compact urban form that maximizes the use of existing infrastructure and contributes to energy efficient settlement patterns. This will be done by increasing densities (approximately 75 - 100 people and/or jobs located within a 400 metre walking distance of transit stops is required to support the level of transit service) through development, conversion, and re-development within Urban Centres (see Map 5.3) in particular and existing areas as per the provisions of the Generalized Future Land Use Map 4.1.

Policy 5.15.12 Steep Slopes. Prohibit development on steep slopes (+30% or greater for a minimum distance of 10 metres) except where provided for in ASPs adopted or subdivisions approved prior to adoption of OCP Bylaw 10500.

Chapter 12: Natural Environment Development Permit Guidelines

Relevant Objectives

- Protecting, restoring, and enhancing environmentally sensitive areas to a functioning ecosystem;
- Minimizing soil disturbance; and
- Protecting biological diversity, wildlife and important wildlife habitats, features and functions.

Relevant Guidelines

- Avoid disturbance to rock outcrops, cliffs, and talus slopes.
- Conserve trees and protect their root systems from disturbance.
- Design and construct to avoid increases to the volume or sediment loads of stormwater discharge above those that would occur under "natural" pre-development conditions.
- In the context of land disturbance, the applicant will ensure the safe collection and conveyance of onsite drainage such that no downstream or immediately adjacent properties are adversely affected. Such works will also divert drainage away from hazardous condition (e.g. steep slopes) areas.

Chapter 13: Hazardous Condition Development Permit Guidelines

Relevant Objectives

- Prevent personal injury and property loss;
- Protect structures from damage; and
- Provide stable and accessible building sites.

Relevant Guidelines

- Disturbance of steep slopes and hazardous condition areas will be avoided in accordance with City of Kelowna hillside development guidelines.
- Existing vegetation shall be maintained to control erosion and protect slopes.
- Development shall be set back a minimum of 10 metres from the top of ridgelines, cliffs or ravines. Variation of the setback may be considered if a geotechnical review can justify a reduced setback.
- Prohibit habitable buildings on hazardous condition lands where future danger cannot, or should not, be mitigated.

6.0 Technical Comments

6.1 Development Engineering Department

The application for a second dwelling at 405 poplar point poses a risk to the slope stability in the area. The Geotech report identifies that any infiltration can reduce the factor of safety of the slope. A requirement of the property is to contain all storm drainage on site and release to a City Storm system, however, there are no storm mains in the area to do this. The water table in this area is high so ground infiltration may not be achievable. Having a water and sanitary service constructed on the slope adds a risk to the stability of the slope. The trenching needed for the services will act as a conduit for any ground water above to be conveyed to the lower side of the property which will put the slope at risk. The water and sanitary service can be done using other access points but, the storm drainage requirement will be difficult to achieve.

7.0 Application Chronology

Date of Application Received: July 13, 2017
 Date Public Consultation Completed: August 28, 2017

8.0 Alternate Recommendation

THAT Rezoning Application No. Z17-0068 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot A District Lot 219 ODYD Plan EPP47591, located at 405 Poplar Point Drive, Kelowna, BC, from the RU1 – Large Lot Housing zone to the RU6 – Two Dwelling Housing zone be considered by Council;

AND THAT the Rezoning Bylaw be forwarded to a Public Hearing for further consideration;

AND THAT final adoption of the Rezoning Bylaw be considered subsequent to the outstanding conditions of approval as set out in Schedule "A" attached to the Report from the Community Planning Department dated October 16, 2017;

AND THAT final adoption of the Rezoning Bylaw be considered subsequent to a full Geotechnical Report being submitted to and accepted by the Community Planning Department, in accordance with a Terms of Reference to be established by the Community Planning Department;

AND THAT final adoption of the Rezoning Bylaw be considered subsequent to issuance of a Natural Environment and Hazardous Condition Development Permit for the subject property;

AND FURTHER THAT final adoption of the Rezoning Bylaw be considered subsequent to Section 219 restrictive covenants being registered on title to delineate no build and no disturbance areas, identify a building envelope, and prohibit irrigation, as well as address other matters that may be identified through the review process.

Report prepared by: ☐ Laura Bentley, Planner II

Reviewed by: ☐ Todd Cashin, Subdivision, Suburban and Rural Planning Manager

Approved for Inclusion: ☐ Ryan Smith, Community Planning Department Manager

Attachments:

Attachment 1: Application Submission

Attachment 2: Schedule "A" – Development Engineering Memorandum

ATTACHMENT 1

This forms part of application

Z17-0068

Planner
Initials

LB

City of
Kelowna
COMMUNITY PLANNING



Fred Hamel
405 Poplar Point Drive
Rezoning Application

PREPARED FOR:
City of Kelowna



Kent Macpherson



June 28, 2017

Current Planning Department
City of Kelowna
1435 Water Street
Kelowna, BC, V1Y 1J4

Attention: **Ryan Smith, Department Manager, Community Planning**

Re: **Rezoning Application**
405 Poplar Point Drive, Kelowna – Lot A, Plan EPP47591, ODYD

Applicant: **Fred Hamel**

Please accept this application to rezone the property at 405 Poplar Point Drive in Kelowna from RU1 (Large Lot Housing) to RU6 (Two Dwelling Housing).

The subject site is 0.828 acres and has frontage on both Poplar Point Drive and Herbert Heights Road. Located in the Kelowna North Neighborhood, it has been a residential property since it was originally subdivided in 1954. There are full municipal services in close proximity both road frontages of the site, providing a unique opportunity for the city to realize their goal of environmentally sensitive infill development.

By rezoning the property to RU6, the property will be able to accommodate a second dwelling located off of Herbert Heights Road. Through appropriate design, the future buildings foundation will be utilized to further stabilize the hillside while retaining the natural character and ecology of the hillside. We have engaged a team of local professionals that have helped guide the design and will continue to be engaged in the design of any future construction on site.

Our team consists of:

Architect

Jim Meiklejohn

Meiklejohn Architects Inc

Environmental

Jason Schleppe

Ecoscapes Environmental Consultants

Foundation & Construction	Gord Wilson	Team Construction
Geotechnical Engineer	Jeremy Block	Interior Testing Services Ltd
Surveyor	Neil Denby	Runnalls Denby Land Surveying

As mentioned, the development will be sensitively integrated into the natural setting, allowing for native vegetation to be replanted in order to control potential erosion, landslip, and rock falls. This will ultimately protect vital local ecological values while maintaining slope stability. As confirmed in the included geotechnical report published by local firm Interior Testing Services, provided that the proposed home is satisfactorily pinned to competent bedrock by micro piles or similar and all drainage water is collected and directed offsite, in their opinion they can conclude that the described parcel is suitable for the intended residential development. The geotechnical risk appears to be within the level of safety currently accepted by the governing authority.

Some site elements that we are proposing will include:

- Native planting on the entire sloped portions
- No exterior irrigation
- Low profile roof
- Rainwater collection

We have worked with Meiklejohn Architects Inc to create a house that will blend into the surrounding environment; seamlessly fitting into the existing rhythm of the neighbourhood and have minimal impact on any surrounding properties view. The proposed house has been designed to utilize the existing grade of the property in a two story format and is proposed in the style and location that we would be prepared to construct.

We were encouraged to watch the City work with the community during their recent Infill Challenge, and believe that by rezoning this subject property to RU6, we can meet many of the same infill goals.

By rezoning the subject property to permit a secondary house, we meet a plethora of OCP Goals around appropriate housing. The only OCP Goal that is not conforming to is Objective 5.15.12. This policy prohibits development on steep slopes (over 30%). The 30% slope has been encouraged for new development to ensure adequate greenspace, and to prevent any slope stability issues. We have attempted to remove these concerns by working with experts in various fields to ensure the end product is a benefit to the community, opposed to a detriment.

Within the Official Community Plan, infill housing represents an important part of the City of Kelowna's overall strategy to offset the impacts of urban sprawl. By permitting new development in the Poplar Point community urban infill will be achieved, reducing traffic and greenhouse gas emissions by drawing residential density closer to downtown Kelowna. The development will capitalize on existing infrastructure making an efficient use of the utilities based off of Herbert Heights Rd.

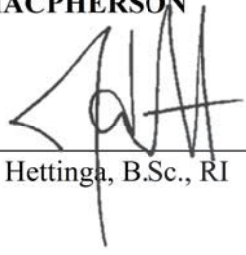
We look forward to working with the City to see this subject property densified and used as appropriate urban infill in our community.

If you have any questions pertaining to this Application, please do not hesitate to contact me.

Sincerely,

KENT-MACPHERSON

Per:



J. Hettinga, B.Sc., RI

SITE RENDERINGS

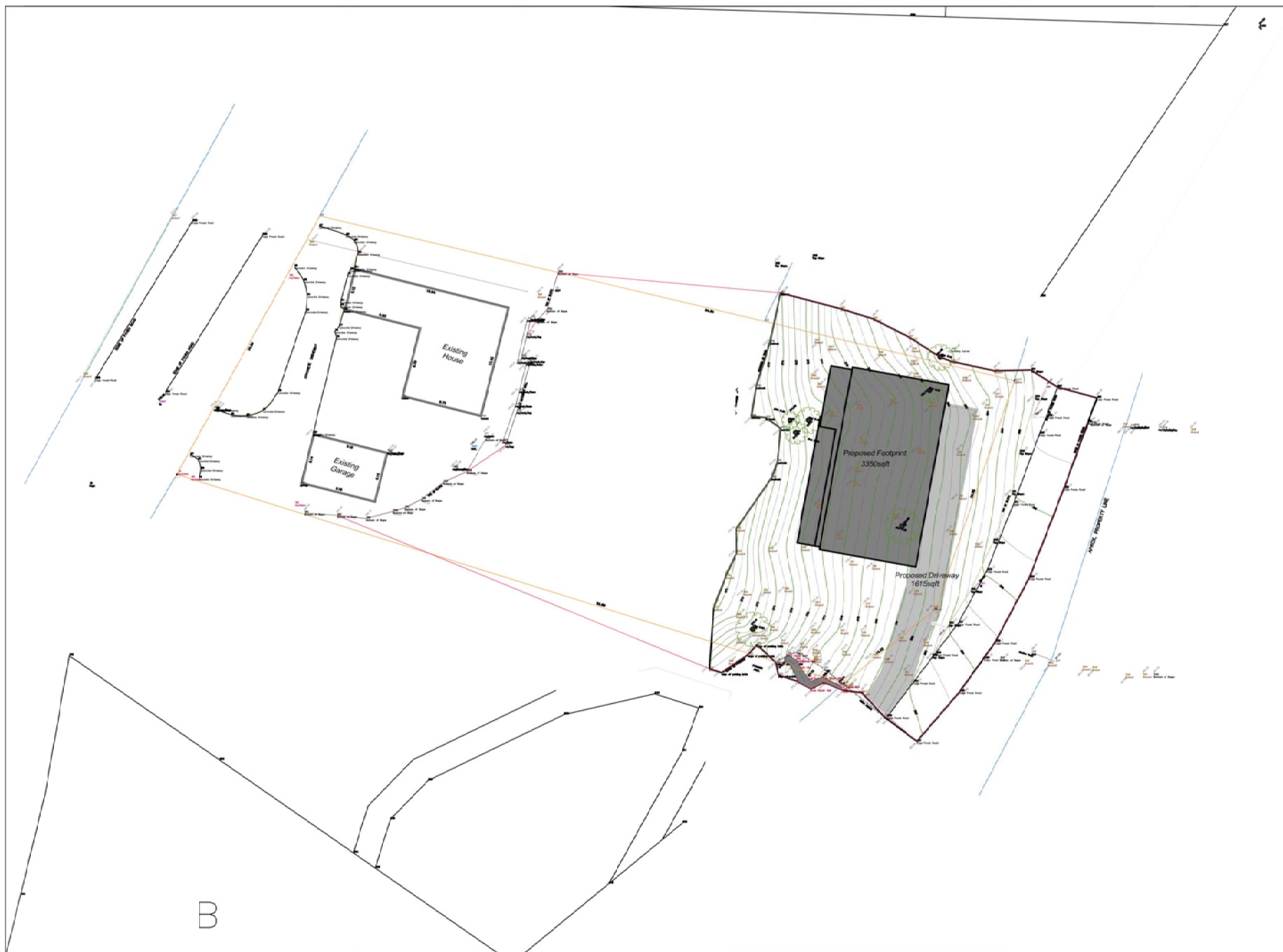






SITE PLAN





210-75 FRONT STREET
 PORTFOLIO, B.C.
 V6A 3A2
 TEL: 250-482-3143
 EMAIL: pen-mat@shaw.ca

213 BERNARD AVENUE
 KELLOWNA, B.C.
 V1Y 6A2
 TEL: 250-762-3094
 EMAIL: kef-mat@shaw.ca

m+m
 MEIKLEJOHN ARCHITECTS INC.



Copyright reserved. This plan and design is and
 all other contents the exclusive property of
 Meiklejohn Architects Inc. and may not be used
 without the Architect's consent.

No.	Date	Revisions

Project Title
**POPLAR POINT
 RESIDENCE**

405 POPLAR POINT DRIVE KELLOWNA

Drawing Number:

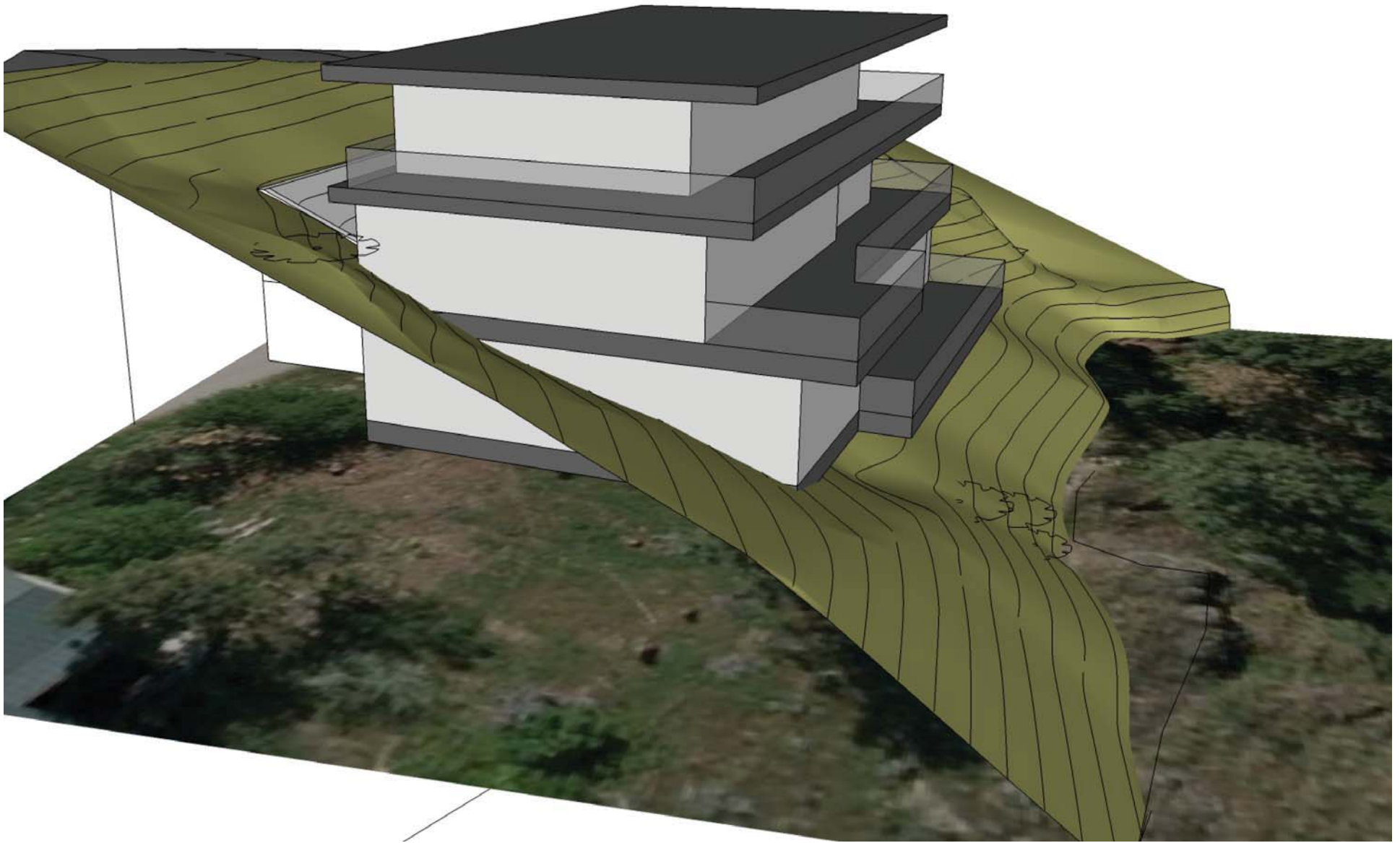
A2

Drawings are not to be relied
 all dimensions shall be verified on job

Drawing Title
SITE PLAN

scale: 1/16"=1'0"

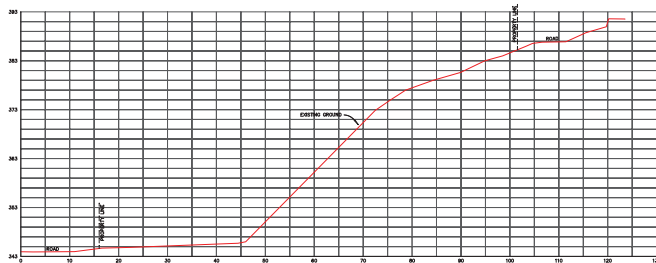
Date	
Job No.	1000-10-1000
Scale	AS SHOWN
Drawn	J.A.K.
Checked	



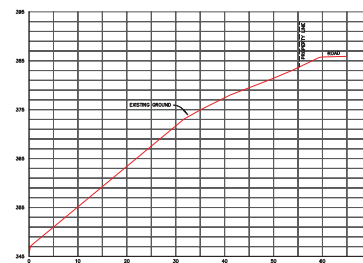
SITE CONTOURS & CROSS SECTIONS



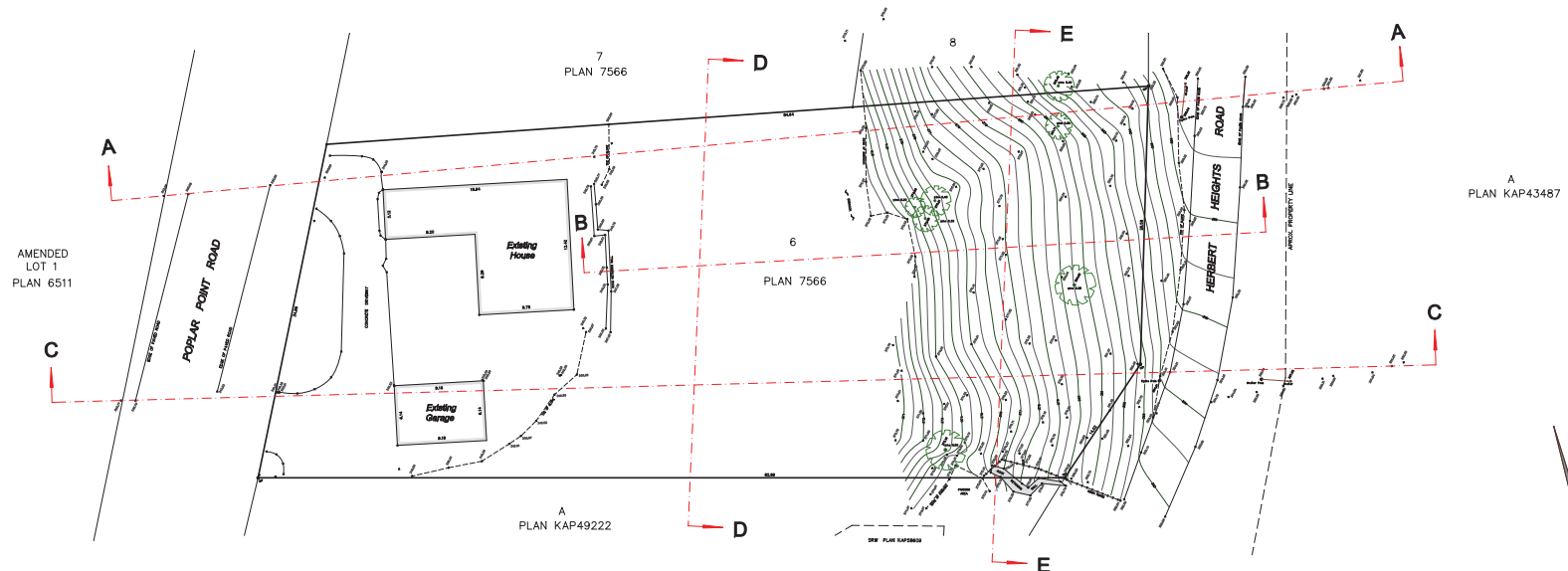
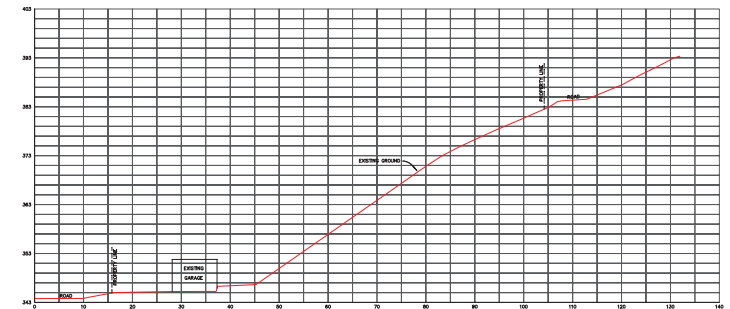
PROFILE A-A (SCALE 1:500)



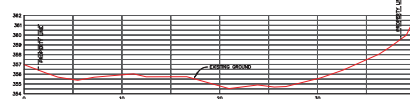
PROFILE B-B (SCALE 1:500)



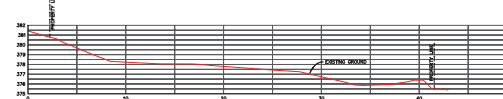
PROFILE C-C (SCALE 1:500)



PROFILE D-D (SCALE 1:250)



PROFILE E-E (SCALE 1:250)



LEGEND:

Elevations are Geodetic and are derived from
Central Monument #7562443 Elev. = 389.361)
Contour Interval = 0.5m

TITLE:

SITE PLAN AND CROSS SECTIONS OF PART OF LOT 6,
DISTRICT LOT 219, O.D.Y.D., PLAN 7566

DRAWN BY:

RUNNALLS DENBY
british columbia land surveyors
259A Lawrence Avenue Phone: (250)763-7322
Nelson, B.C. V1Y 6L2 Fax: (250)763-4413
Email: nell@runnallsdenby.com

CLIENT:

FREDCO HOLDINGS

SCALE: 1:250 (22"x34")

DATE: NOV. 20, 2013

DWG: 13917 SITE 2

FILE No: 13917

REV. 0

GEOTECHNICAL LETTER



**- INTERIOR -
TESTING SERVICES
- LTD. -**

**MATERIALS TESTING • SOILS
CONCRETE • ASPHALT • CORING
GEOTECHNICAL ENGINEERING**

**1 - 1925 KIRSCHNER ROAD
KELOWNA, B.C. V1Y 4N7
PHONE: 860-6540
FAX: 860-5027**

Fred Hamel
400 Poplar Point Drive
Kelowna, BC V1Y 1Y1

December 4, 2013
Job 13.176

Attention: Mr Fred Hamel

Dear Sir;

Re: **Geotechnical Hazard Review
Proposed 2 Lot Subdivision
405 Poplar Point Drive
Kelowna, BC**

As requested and further to our proposal dated November 5, 2013, Interior Testing Services Ltd (ITSL) has carried out a geotechnical review of the above noted subject property. Please find attached a one page site plan with schematic logs, two pages of test pit logs, one page of laboratory results, Appendix A which includes a site plan and cross sections, a copy of the completed *Appendix D: Landslide Assessment Assurance Statement*, and a copy of our two-page "Terms of Engagement" that applies to our work on this project, previously accepted and signed.

1.0 INTRODUCTION

We understand that it is intended to subdivide 405 Poplar Point Drive into two separate lots (east and west). Currently there is an existing residence off Poplar Point Drive which would eventually become the west lot and we understand that the structure will remain.

We further understand the City of Kelowna (the City) requires a geotechnical assessment as part of the process for the subdivision and development permit application. Based on this, we identify the City as an authorized user of this report, subject to our attached "Terms of Engagement".

The current owner / developer should include this report in the package submitted to the proposed buyer of the subdivided property so that the geotechnical risks are understood by the ultimate end

users. Furthermore, we identify the buyer as an authorized user of this report, also subject to our attached "Terms of Engagement".

2.0 SCOPE OF WORK

Our scope of work was to assess the underlying soil and groundwater conditions, including surficial soil and bedrock with respect to geotechnical suitability and planning for the proposed subdivision. In addition, geotechnical hazards were to be identified and preliminary recommendations for mitigation provided.

The following report presents our findings and provides preliminary comments on slope issues and general considerations regarding design and construction of the upper (east) property.

2.0 FIELD WORK & RESULTS

On November 15, 2013, a tracked excavator operated by AG Appel was used to advance two test pits to 2.4 and 2.3 m below grade respectively. The soil profiles of the test pits were continuously logged in the field and occasional representative samples were recovered for moisture content determination and sieve analyses.

The approximate locations of the test pits are shown on Drawing 13.176-1 provided courtesy of Runnalls Denby BC Land Surveyors (Runnalls). Geodetic elevations of the test pits have been approximated from the contours also shown on Drawing 13.176-1.

2.1 Soil Profile

In general, based on our two test pits, the site is underlain by surface topsoils, followed by SANDs and GRAVELs with varying silt (fines) content. Typically the SANDs are coarse, often gravelly. Occasional clay partings (seams) were observed with depth in TP2.

We did not encounter BEDROCK within the test pit areas. Within the general area, BEDROCK faces are typically exposed along the north (approximate) half of the site, extending through the properties to the north. However, there are no immediate BEDROCK exposures within the south half of the site.

Our general experience in the area suggests that BEDROCK may be at significant depth on the upper (east) proposed property, potentially on the order of 15 m.

2.2 Groundwater

Neither groundwater nor seepage was encountered during our investigation. We have experience within the area that suggests deep seated seepage and / or groundwater levels. We anticipate this is likely uphill drainage flowing across the top of the underlying BEDROCK. Nonetheless, groundwater levels will be affected by drainage and infiltration conditions.

The comment above should not be misconstrued as water not being a potential concern for this site. Given the sloping nature of this property, long-term slope stability will at least, in part be affected by drainage conditions and groundwater levels. More specifically, given the existing slope conditions, we do not anticipate septic fields to be appropriate for the upper (east) proposed property.

2.3 Laboratory Work

Moisture contents were determined on all recovered samples and the natural sands and gravels varied between 2 and 5%. The results are presented on the attached test pit logs (Drawings 13.176-2 to 13.176-3).

Several sieve analysis were also carried out to approximate the gradation characteristics of the underlying sands and gravels, which is useful for preliminary slope stability analysis. The sieve results are shown on Drawing 13.176-4 and generally indicate medium, coarse to gravelly sands, with trace to some silt.

2.4 General Field Review Comments

During our November 15, 2013 investigation and again on November 18, 2013, ITSL carried out general site reconnaissance. The subject property and adjacent roadways were traversed to broadly review existing surface soil, bedrock and drainage conditions. Observations of the uphill and adjacent properties were also included. Our observations were recorded with field notes and are generally summarized below.

1. The east half of the proposed subdivision (above the crest of the bedrock exposure) is moderately vegetated with localized areas of large, mature trees. No obvious bedrock exposures from the crest of the bedrock near the centre of the site to Herbert Heights Road (to the east) were noted.

There is also evidence of asphalt failure (cracking) along Herbert Heights Road near a possible utility service easement.

2. The downhill (west) half of the subject property appears to be densely treed within the steep, central section (south of the exposed BEDROCK) of the site. There is evidence of creep noted within the trees, which we normally define as the leaning or rotation of mature trees towards the downhill side. Creep does indicate some slow downhill movement of (at least) the overburden soil.
3. Above Herbert Heights Road, the length of the slope appears to be on the order of 50 m and based on rough field measurements, the slope angle appears to be roughly 35 degrees. Furthermore, the slope appears to be predominantly comprised of BEDROCK or shallow overburden. There was minor vegetation also noted.

There is evidence of minor rock fall / talus noted near the bottom of the slope (immediately east of Herbert Heights Road). Some catchment areas could be considered. In addition, there is a large rock fragment near the south of the road which may have fractured off the larger bedrock exposure mass.

4. In localized sections, the bedrock observed along the uphill slopes appeared to be fractured with random joint sets. The highly fractured nature suggests that some attention with respect to rock scaling and rock fall hazard could be considered uphill of the residential development which will likely require discussion with the uphill property owners. Conversely, the highly fractured nature may limit potential rock fall hazard particle size to roughly 300 mm diameter. If rock of this approximate size were to roll to the base of the slope, significant damage would likely not be expected considering the existing catchment provided by Herbert Heights road, which would reduce the rolling energy by acting as a buffer.

3.0 NATURAL HAZARD ASSESSMENT

Hazards for the overall area were assessed in the field based on visible conditions, topography, climate, historical soil erosion and instabilities in areas with similar soil types and slope characteristics.

3.1 Rock Fall

As noted above, it is possible that the large rock fragment noted near the end of Herbert Heights was dislodged from the main rock mass, which may suggest the possibility for above normal rock fall hazard. In addition, there was some minor rock fall / talus noted along the east side of Herbert Heights which suggests that there is some activity uphill. While the potential for natural events would likely not be significant, the potential for rolling rock hazard as a result of vandalism should also be considered.

The Herbert Heights road right of way currently separates the toe of the slope from the proposed subdivision. This right of way may act as an energy reducing buffer between the potential falling rock and the structures, so that significant damage and / or loss of life due to normal occupation of the residential structures would not typically be anticipated for common size fragments.

Although likely low, there appears to be some risk of potential rock fall. We expect that Herbert Heights road will act as a suitable buffer for the majority of potential fragments. Should the end user of the proposed uphill (east) property observe movement or rock fall from the slope above Herbert Heights road, a geotechnical review should be carried out. Furthermore, a geotechnical review should be carried out to assess possible risk to the subject properties if the areas above Herbert Heights road are to be developed.

3.2 Slope Instability

As mentioned above there was evidence of soil creep within the south half of the subject property, as observed by rotated tree growth. As a minimum this is at least evidence of movement within the surface soils. Furthermore, as the south half of the property appears to be above a conventional 2H:1V line, we do not recommend further development within this particular area of the property. For visual reference, Section C-C in Appendix A is within the area we do not recommend development. Furthermore, the area approximated by Section C-C should not be disturbed from its current 'natural' condition (ie no landscaping, driveways etc). Future development / construction of the uphill (east) proposed property should be completed in a manner which does not significantly disturb the existing conditions of the slopes.

If a restrictive covenant is to be placed on the subdivided lot, further guidance can be provided to that respect.

4.0 DESKTOP REVIEW

In addition to our field work, a desktop review including topographic and local geological maps, as well as examination of a series of cross sections was carried out. The topographic and geological maps provide additional information of the physical terrain of the subject property and the overall surrounding area.

4.1 Geology

As described by Roed (2004) the general area to the west of Knox Mountain can be described as rock hills, benches and slopes, with patchy veneer of moraine. This description is similar to the terrain observed. However, based on our shallow test pit information (see above) and experience in

the area, the depth to BEDROCK could potentially on the order of 15 m, which will impact long-term slope stability and may affect proposed residential construction within the upper (east) proposed property.

4.2 Cross-Section Review

A series of cross sections, shown in Appendix A, were prepared by Runnalls and forwarded for our review. It is conventional geotechnical practice to consider a setback of roughly 2 Horizontal to 1 Vertical (2H:1V) line for construction. For reference, we have sketched on a 2H:1V line for Sections A-A through to C-C.

For Sections A-A and B-B we estimated the approximate crest of the BEDROCK exposure and sketched the line above (east) of that position. Given that no immediate BEDROCK exposure was observed within Section C-C, the 2H:1V line was drawn from the toe of the slope.

As shown on the attached sheet, Sections A-A and B-B appear to be below or close to the 2H:1V (projected above the approximate crest of the BEDROCK exposure). Section C-C is above the 2H:1V line and likely is closer to 1.5H:1V, although there are likely localized steeper sections.

To further assess the condition of the existing slope, we carried out a brief slope stability analysis using the slope cross-sections provided, as follows.

$$FS = \tan (\Phi) / \tan (\beta)$$

Where: FS = factor of safety (1.3 to 1.5 preferred)
 Φ = the soil friction angle, and
 β = the slope angle of the failure plane under consideration

For a slope angle of 35 degrees and a soil friction angle of 40 degrees (Terzaghi and Peck 2nd Edition) a factor of safety of roughly 1.2 is calculated. A factor of safety of roughly 1.8 is calculated when a slope angle of 25 degrees is considered, which is roughly equivalent to a 2H:1V line.

5.0 PRELIMINARY GEOTECHNICAL RECOMMENDATIONS

While we anticipate that conventional strip footings could be suitable for a building constructed within the north east section of the proposed uphill (east) property, given the existing slope condition, it would be preferable to connect the foundation system to solid bedrock.

Additional geotechnical investigations, including drilling, should be carried out to determine the depth to bedrock, which will provide useful information for foundation design purposes.

Our preliminary geotechnical recommendations for the potential residential construction on the proposed uphill (east) property are as follows.

5.1 Preliminary Foundation Design Considerations (proposed east property)

As discussed above, proposed buildings should be set within the north east section of the property. This area can loosely be interpreted as the area above the bedrock face which crosses the north half of the property. Alternatively, this area is approximately by the location of Sections A-A and B-B in Appendix A. Any building footings / deck pads should be set below and behind a conventional 2H:1V line, projected up from the crest of this downhill bedrock face. This setback is to be confirmed by a professional surveyor prior to placing any footings or deck pads.

It is possible that standard strip footings could be considered if they are confirmed to be set below a conventional 2H:1V line. Alternatively, piles or rock socket type foundation systems could be considered for building support if setting conventional footings (or deck pads) behind a 2H:1V becomes challenging. As discussed above, additional geotechnical investigations will likely be necessary for any proposed building so that the depth (and type) of footings can be accurately determined prior to construction.

5.2 Existing Slopes

As mentioned in 3.2.1 above, should the end user / owner of the proposed uphill (east) property observe movement or rock fall of the slope above Herbert Heights road, a geotechnical engineer should be given the opportunity to review. The current owner / developer should undertake the responsibility to convey this particular section of the report to the proposed purchaser.

With respect to the slope between the proposed east and west properties, consideration should be given to registering a no-build and no-disturb covenant on the areas in front of a conventional 2H:1V line. This would be in effort to allow the current slope condition to remain, which would assist in limiting the potential increased risk of localized downslope movement.

5.3 Finished Slopes

In general, we recommend soil cut and structural fill slopes be finished to no steeper than roughly 2H:1V and vegetated to reduce the potential for erosion. All slopes may require some degree of maintenance with the passing of time. However, as noted above, we suggest a no-disturb, no-build area be applied to the areas in front of conventional 2H:1V lines.

5.4 Groundwater & Drainage

Given that this area is in the highland, we do not anticipate groundwater to be a significant geotechnical concern for the proposed development. This should be further assessed by additional subsurface investigations.

However, the uphill (east) proposed property does not appear to contain a suitable area for conventional septic fields, such that a sanitary sewer connection will need to be provided.

Depending on final layout, interceptor or infiltration drains may be necessary to collect uphill drainage and direct around the downslope areas. More specifically, roof and perimeter drainage should be collected and directed (in solid pipes) to (at least) the base of the existing slope which may necessitate allowing for a drainage easement through the proposed downhill (west) property.

As part of the process for development of the proposed uphill (east) property we recommend dry / xeriscaping as opposed to conventional water intensive landscaping. Furthermore, we suggest that no irrigation be carried out within any proposed residential development. Saturation of the underlying soils is often a catalyst for both localized and / or significant downhill movements / failures and limiting sources of potential water (irrigation) appears to be reasonable from a geotechnical perspective.

6.0 DISCUSSION OF RESULTS

6.1 Existing Structure (proposed west property)

There appears to be an existing risk of damage to the current building on the proposed downhill (west) property. The structure appears to be constructed close to the toe of the slope and appears to be within a conventional 2H:1V runout line, projected down from the proposed upper (east) property.

Furthermore, it is challenging to quantify the existing risk to the current building. However, if the uphill (east) proposed property is developed following our preliminary recommendations above (to be supplemented with a site specific geotechnical investigation) we do not anticipate a significant increase to the existing downhill building. We note that while we do not anticipate a significant increase in risk, this does not translate to zero risk for the existing structure, as there is an existing risk which cannot be eliminated.

6.2 Potential Structure (proposed east property)

We understand that the City has adopted a 2% probability in a 50 year period as its level of safety (for this particular project) with respect to geotechnical hazards for the proposed development.

Based on our experience and comments above, it appears reasonable, in our opinion, to conclude that the above described location within the uphill (east) property, is suitable for the intended residential development and the geotechnical risk appears to be within the level of safety currently accepted by the governing authority.

While it appears reasonable to come to the opinion we have provided above with respect to 2% probability in a 50 year period, ITSL notes that the occurrence of a hazard event is always a possibility and cannot be construed as an error or omission on the part of ITSL or the City.

7.0 CONCLUSIONS

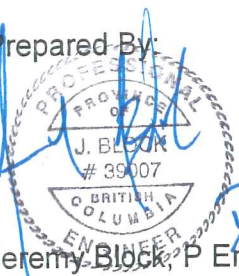
- 7.1 Results of our review and preliminary recommendations for site development have been provided in the previous sections of this report.
- 7.2 Based on our desktop and field reviews, the north east section of the uphill (east) proposed property appears adequately suited to residential construction, subject to our recommendations on natural hazards and site development above as well as a future site specific geotechnical investigation.

More specifically, while conventional strip footings could be considered for a proposed building, it would be preferable to connect foundations to the underlying bedrock mass.

We trust the above comments are sufficient at this stage. After your review, please feel free to call and discuss if you have any questions.

Sincerely,
Interior Testing Services Ltd

Prepared By:



12.15/13

Jeremy Block, P Eng

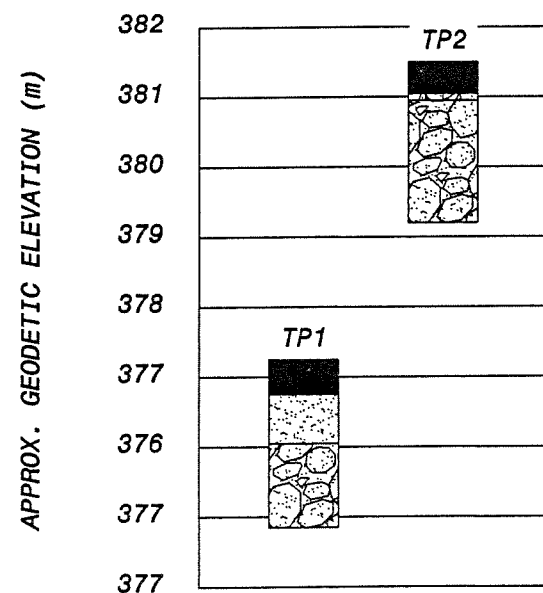
Reviewed By







Peter Hanenburg, P Eng

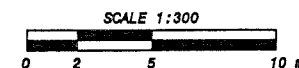


SCHEMATIC LOGS



LEGEND

-  TEST PIT LOCATION
-  FILL
-  SAND
-  SAND & GRAVEL



NOTES

1. REFERENCE PLAN SUPPLIED BY RUNNALLS DENBY.
2. TEST PIT LOCATIONS ARE APPROXIMATE AND MAY VARY FROM THAT SHOWN.
3. FOR DETAILED SOIL DESCRIPTIONS REFER TO TEST PIT LOGS.
4. TEST PIT ELEVATIONS APPROXIMATED FROM CONTOUR PLAN.

<p>FRED HAMEL</p> <p>PROPOSED 2 LOT SUBDIVISION</p> <p>405 POPLAR POINT DRIVE</p> <p>KELOWNA, BC</p>	<p>SITE PLAN</p> <p>&</p> <p>SCHEMATIC LOGS</p>	<p>INTERIOR TESTING SERVICES LTD.</p> <p>1-1925 KIRSCHNER ROAD, KELOWNA, BC V1Y 4N7</p> <p>PH: 250-860-6540 FAX: 250-860-5027</p>	
		<p>DATE OF INVESTIGATION: NOVEMBER 15, 2013</p>	<p>JOB NUMBER: 13.176 DRAWING NUMBER: 13.176.1</p>

**- INTERIOR -
TESTING SERVICES
- LTD. -**

LOG OF TEST PIT 1

Interior Testing Services Ltd.
1 - 1925 Kirschner Road
Kelowna, BC V1Y 4N7
(250) 860 - 6540
email: itsl@shawbiz.ca

Project : 13.176
: Proposed Subdivision
: 405 Poplar Point Drive
: Kelowna, BC
Location : See Dwg. No. 13.176-1

Method : Excavator
Contractor : AG Appel
Logged By : JB
Date : November 15, 2013

Depth in Meters	Moisture Content 0 20 40 60 80	Moisture Content	Water Level	REMARKS	GRAPHIC	Sample Number	Sample Type	Legend	Depth in Meters
								<div>▼ Water Noted During Drilling</div> <div>▽ Water Noted in Piezometer</div> <div>□ Disturbed Sample</div>	
								DESCRIPTION	
0								Silty TOPSOIL, occasional roots.	0
1	3%			Sieve Analysis 14% Fines		S1	<input type="checkbox"/>	Light brown, gravelly, medium SAND, some silt, occasional cobble.	1
2	5%			Sieve Analysis 5% Fines		S2	<input type="checkbox"/>	Coarse, gravelly SAND.	2
3								Bottom of test pit at 2.4 m.	3
4									4
5									5

**- INTERIOR -
TESTING SERVICES
- LTD. -**

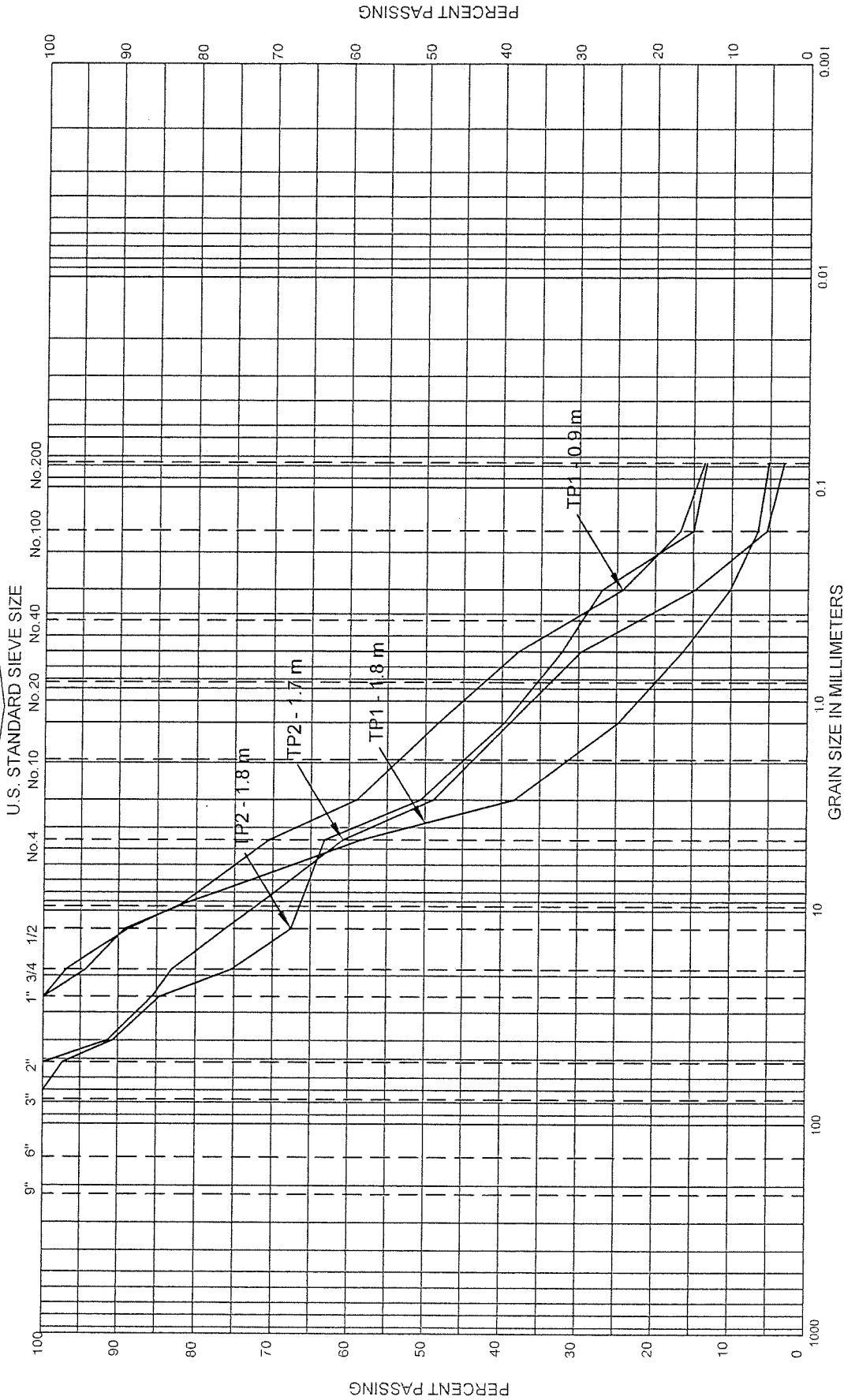
LOG OF TEST PIT 2

Interior Testing Services Ltd.
1 - 1925 Kirschner Road
Kelowna, BC V1Y 4N7
(250) 860 - 6540
email: itsl@shawbiz.ca

Project	: 13.176	Method	: Excavator
	: Proposed Subdivision	Contractor	: AG Appel
	: 405 Poplar Point Drive	Logged By	: JB
	: Kelowna, BC	Date	: November 15, 2013
Location	: See Dwg. No. 13.176-1		

Depth in Meters	Moisture Content 0 20 40 60 80	Moisture Content	Water Level	REMARKS	GRAPHIC	Sample Number	Sample Type	Legend	Depth in Meters
								<div>▼ Water Noted During Drilling</div> <div>▽ Water Noted in Piezometer</div> <div>□ Disturbed Sample</div>	
								DESCRIPTION	
0								Dark brown, silty TOPSOIL, occasional roots.	0
								Light brown, silty SAND and GRAVEL.	
								Fine to coarse, gravelly, SAND, trace to some silt. Cobble sizes noted with depth. Occasional clay partings (seams).	
1	2%			Sieve Analysis 3% Fines		S1	<input type="checkbox"/>		1
				Sieve Analysis 13% Fines		S2	<input type="checkbox"/>		
2								Bottom of test pit at 2.3 m.	2
3									3
4									4
5									5

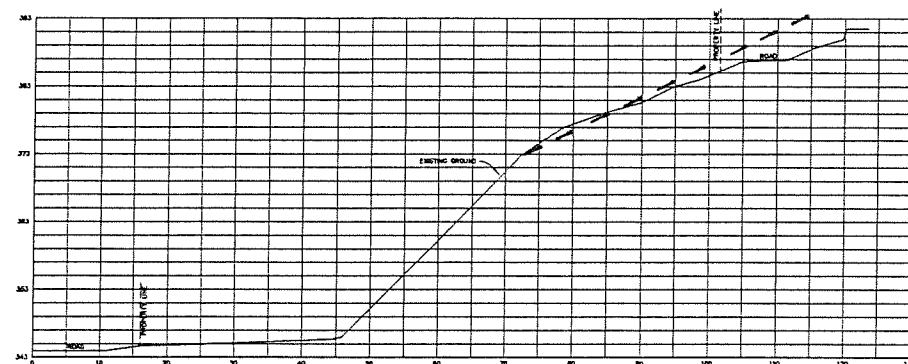
INTERIOR TESTING SERVICES LTD.
 1-1925 KIRSCHNER ROAD, KELOWNA, B.C. V1Y 4N7
 PH: 250-860-6540 FAX: 250-860-5027
 E-MAIL: itsl@shawbiz.ca



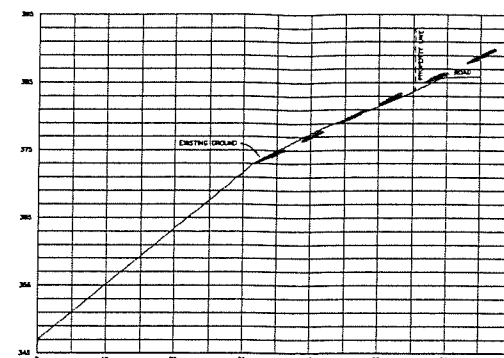
APPENDIX A

SITE PLAN & SECTIONS

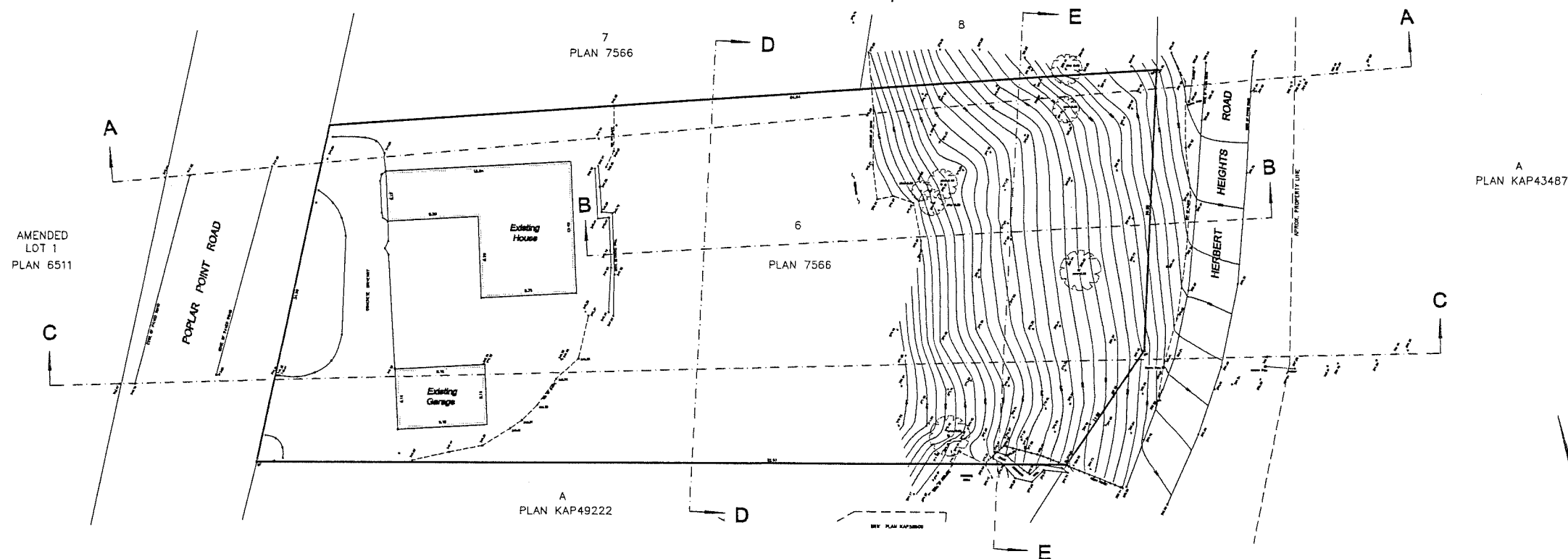
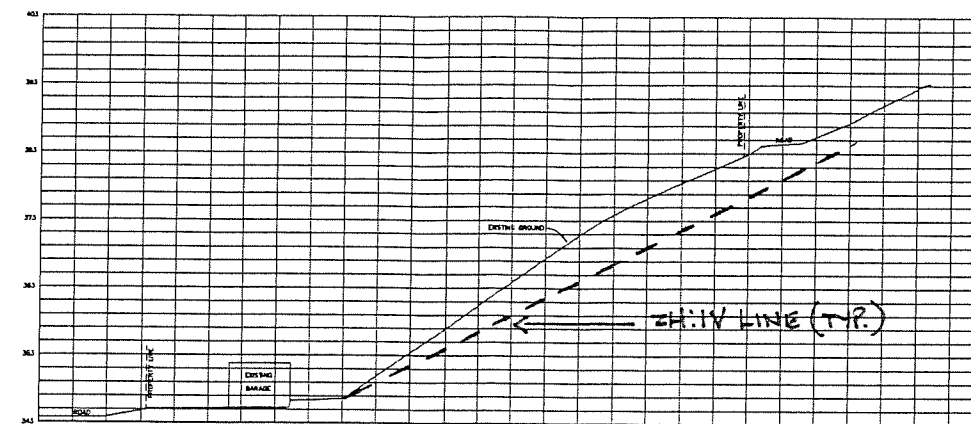
PROFILE A - A (SCALE 1:500)



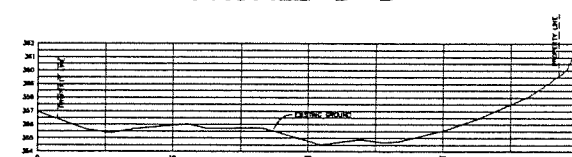
PROFILE B - B (SCALE 1:500)



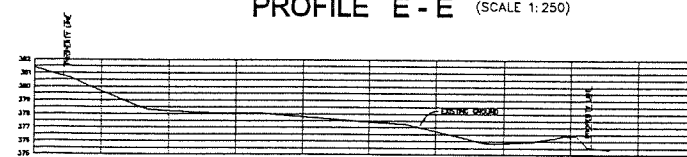
PROFILE C - C (SCALE 1:500)



PROFILE D - D (SCALE 1:250)



PROFILE E - E (SCALE 1:250)



LEGEND:

Elevations are Geodetic and are derived from
Control Monument #7542443 (Elev. = 389.361)
Contour interval = 0.5m

TITLE:

SITE PLAN AND CROSS SECTIONS OF PART OF LOT 6,
DISTRICT LOT 219, O.D.Y.D., PLAN 7566

DRAWN BY:

RUNNALLS DENBY
british columbia land surveyors

259A Lawrence Avenue Phone: (250)763-7322
Kelowna, B.C. V1Y 6L2 Fax: (250)763-4413
Email: ned@runnallsdenby.com

CLIENT:

FREDCO HOLDINGS

SCALE:

1:250 (22"x34")

DATE:

NOV. 20, 2013

DWG:

13917 SITE 2

FILE NO:

13917

REV.

0

APPENDIX D: LANDSLIDE ASSESSMENT ASSURANCE STATEMENT

Note: This Statement is to be read and completed in conjunction with the "APEGBC Guidelines for Legislated Landslide Assessments for Proposed Residential Development in British Columbia", March 2006/Revised September 2008 ("APEGBC Guidelines") and the "2006 BC Building Code (BCBC 2006)" and is to be provided for *landslide assessments* (not floods or flood controls) for the purposes of the Land Title Act, Community Charter or the Local Government Act. Italicized words are defined in the APEGBC Guidelines.

To: The Approving Authority

Date: DECEMBER 2, 2013

CITY OF KELOWNA
c/o MR FRED HANDEL

Jurisdiction and address

With reference to (check one):

- ☒ Land Title Act (Section 86) – Subdivision Approval
- ☐ Local Government Act (Sections 919.1 and 920) – Development Permit
- ☐ Community Charter (Section 56) – Building Permit
- ☐ Local Government Act (Section 910) – Flood Plain Bylaw Variance
- ☐ Local Government Act (Section 910) – Flood Plain Bylaw Exemption
- ☐ British Columbia Building Code 2006 sentences 4.1.8.16 (8) and 9.4 4.4.(2) (Refer to BC Building and Safety Policy Branch Information Bulletin B10-01 issued January 18, 2010)

For the Property:

405 PEARL POINT DRIVE
Legal description and civic address of the Property

The undersigned hereby gives assurance that he/she is a *Qualified Professional* and is a *Professional Engineer* or *Professional Geoscientist*.

I have signed, sealed and dated, and thereby certified, the attached *landslide assessment* report on the Property in accordance with the *APEGBC Guidelines*. That report must be read in conjunction with this Statement. In preparing that report I have:

Check to the left of applicable items

- ☒ 1. Collected and reviewed appropriate background information
- ☐ 2. Reviewed the proposed *residential development* on the Property
- ☒ 3. Conducted field work on and, if required, beyond the Property
- ☒ 4. Reported on the results of the field work on and, if required, beyond the Property
- ☒ 5. Considered any changed conditions on and, if required, beyond the Property
- 6. For a *landslide hazard analysis* or *landslide risk analysis* I have:
 - ☐ 6.1 reviewed and characterized, if appropriate, any *landslide* that may affect the Property
 - ☒ 6.2 estimated the *landslide hazard*
 - ☐ 6.3 identified existing and anticipated future *elements at risk* on and, if required, beyond the Property
 - ☐ 6.4 estimated the potential *consequences* to those *elements at risk*
- 7. Where the *Approving Authority* has adopted a *level of landslide safety* I have:
 - ☒ 7.1 compared the *level of landslide safety* adopted by the *Approving Authority* with the findings of my investigation
 - ☒ 7.2 made a finding on the *level of landslide safety* on the Property based on the comparison
 - ☐ 7.3 made recommendations to reduce *landslide hazards* and/or *landslide risks*
- 8. Where the *Approving Authority* has **not** adopted a *level of landslide safety* I have:

- ☐ 8.1 described the method of *landslide hazard analysis* or *landslide risk analysis* used
☐ 8.2 referred to an appropriate and identified provincial, national or international guideline for *level of landslide safety*
☐ 8.3 compared this guideline with the findings of my investigation
☐ 8.4 made a finding on the *level of landslide safety* on the Property based on the comparison
☐ 8.5 made recommendations to reduce *landslide hazards* and/or *landslide risks*
☒ 9. Reported on the requirements for future inspections of the Property and recommended who should conduct those inspections.

Based on my comparison between

Check one

- ☒ the findings from the investigation and the adopted *level of landslide safety* (item 7.2 above)
☐ the appropriate and identified provincial, national or international guideline for *level of landslide safety* (item 8.4 above)

I hereby give my assurance that, based on the conditions^[1] contained in the attached *landslide assessment* report,

Check one

- ☒ for subdivision approval, as required by the Land Title Act (Section 86), "that the land may be used safely for the use intended"

Check one

- ☒ with one or more recommended registered covenants.
☐ without any registered covenant.

- ☐ for a development permit, as required by the Local Government Act (Sections 919.1 and 920), my report will "assist the local government in determining what conditions or requirements under [Section 920] subsection (7.1) it will impose in the permit".

- ☐ for a building permit, as required by the Community Charter (Section 56), "the land may be used safely for the use intended"

Check one

- ☐ with one or more recommended registered covenants.
☐ without any registered covenant.

- ☐ for flood plain bylaw variance, as required by the "Flood Hazard Area Land Use Management Guidelines" associated with the Local Government Act (Section 910), "the development may occur safely".

- ☐ for flood plain bylaw exemption, as required by the Local Government Act (Section 910), "the land may be used safely for the use intended".

PETER HANENBURG, P.ENG.
Name (print)

DEC 2, 2013
Date

Signature

^[1] When seismic slope stability assessments are involved, *level of landslide safety* is considered to be a "life safety" criteria as described in the National Building Code of Canada (NBCC 2005), Commentary on Design for Seismic Effects in the User's Guide, Structural Commentaries, Part 4 of Division B. This states:

"The primary objective of seismic design is to provide an acceptable level of safety for building occupants and the general public as the building responds to strong ground motion; in other words, to minimize loss of life. This implies that, although there will likely be extensive structural and non-structural damage, during the DGM (design ground motion), there is a reasonable degree of confidence that the building will not collapse nor will its attachments break off and fall on people near the building. This performance level is termed 'extensive damage' because, although the structure may be heavily damaged and may have lost a substantial amount of its initial strength and stiffness, it retains some margin of resistance against collapse".

1-1925 KIRSCHNER ROAD

Address

KILOWNA, BC V1Y 4N7

250-860-6540

Telephone



(Affix Professional seal here)

If the *Qualified Professional* is a member of a firm, complete the following.

I am a member of the firm INTERIOR TESTING SERVICES LTD.
and I sign this letter on behalf of the firm. (Print name of firm)

TERMS OF ENGAGEMENT

GENERAL

Interior Testing Services Ltd. (ITSL) shall render the Services performed for the Client on this Project in accordance with the following Terms of Engagement. ITSL may, at its discretion and at any stage, engage subconsultants to perform all or any part of the Services. Unless specifically agreed in writing, these Terms of Engagement shall constitute the entire Contract between ITSL and the Client.

COMPENSATION

Charges for the Services rendered will be made in accordance with ITSL's Schedule of Fees and Disbursements in effect from time to time as the Services are rendered. All Charges will be payable in Canadian Dollars. Invoices will be due and payable by the Client within thirty (30) days of the date of the invoice without hold back. Interest on overdue accounts is 12% per annum.

REPRESENTATIVES

Each party shall designate a representative who is authorized to act on behalf of that party and receive notices under this Agreement.

TERMINATION

Either party may terminate this engagement without cause upon thirty (30) days' notice in writing. On termination by either party under this paragraph, the Client shall forthwith pay ITSL its Charges for the Services performed, including all expenses and other charges incurred by ITSL for this Project.

If either party breaches this engagement, the non-defaulting party may terminate this engagement after giving seven (7) days' notice to remedy the breach. On termination by ITSL under this paragraph, the Client shall forthwith pay to ITSL its Charges for the Services performed to the date of termination, including all fees and charges for this Project.

ENVIRONMENTAL

ITSL's field investigation, laboratory testing and engineering recommendations will not address or evaluate pollution of soil or pollution of groundwater. ITSL will co-operate with the Client's environmental consultant during the field work phase of the investigation.

PROFESSIONAL RESPONSIBILITY

In performing the Services, ITSL will provide and exercise the standard of care, skill and diligence required by customarily accepted professional practices and procedures normally provided in the performance of the Services contemplated in this engagement at the time when and the location in which the Services were performed. ITSL makes no warranty, representation or guarantee, either express or implied as to the professional services rendered under this agreement.

LIMITATION OF LIABILITY

ITSL shall not be responsible for:

- (a) the failure of a contractor, retained by the Client, to perform the work required in the Project in accordance with the applicable contract documents;
- (b) the design of or defects in equipment supplied or provided by the Client for incorporation into the Project;
- (c) any cross-contamination resulting from subsurface investigations;
- (d) any damage to subsurface structures and utilities;
- (e) any Project decisions made by the Client if the decisions were made without the advice of ITSL or contrary to or inconsistent with ITSL's advice;
- (f) any consequential loss, injury or damages suffered by the Client, including but not limited to loss of use, earnings and business interruption;
- (g) the unauthorized distribution of any confidential document or report prepared by or on behalf of ITSL for the exclusive use of the Client.

The total amount of all claims the Client may have against ITSL under this engagement, including but not limited to claims for negligence, negligent misrepresentation and breach of contract, shall be strictly limited to the lesser of our fees or \$50,000.00.

No claim may be brought against ITSL in contract or tort more than two (2) years after the Services were completed or terminated under this engagement.

PERSONAL LIABILITY

For the purposes of the limitation of liability provisions contained in the Agreement of the parties herein, the Client expressly agrees that it has entered into this Agreement with ITSL, both on its own behalf and as agent on behalf of its employees and principals.

The Client expressly agrees that ITSL's employees and principals shall have no personal liability to the Client in respect of a claim, whether in contract, tort and/or any other cause of action in law. Accordingly, the Client expressly agrees that it will bring no proceedings and take no action in any court of law against any of ITSL's employees or principals in their personal capacity.

THIRD PARTY LIABILITY

This report was prepared by ITSL for the account of the Client. The material in it reflects the judgement and opinion of ITSL in light of the information available to it at the time of preparation. Any use which a third party makes of this report, or any reliance on or decisions to be made based on it, are the responsibility of such third parties. ITSL accepts no responsibility for damages, if any, suffered by any third party as a result of decisions made or actions based on this report. This report may not be used or relied upon by any other person unless that person is specifically named by us as a beneficiary of the Report. The Client agrees to maintain the confidentiality of the Report and reasonably protect the report from distribution to any other person.

INDEMNITY

The client shall indemnify and hold harmless ITSL from and against any costs, damages, expenses, legal fees and disbursements, expert and investigation costs, claims, liabilities, actions, causes of action and any taxes thereon arising from or related to any claim or threatened claim by any party arising from or related to the performance of the Services.

DOCUMENTS

All of the documents prepared by ITSL or on behalf of ITSL in connection with the Project are instruments of service for the execution of the Project. ITSL retains the property and copyright in these documents, whether the Project is executed or not. These documents may not be used on any other project without the prior written agreement of ITSL.

FIELD SERVICES

Where applicable, field services recommended for the Project are the minimum necessary, in the sole discretion of ITSL, to observe whether the work of a contractor retained by the Client is being carried out in general conformity with the intent of the Services.

DISPUTE RESOLUTION

If requested in writing by either the Client or ITSL, the Client and ITSL shall attempt to resolve any dispute between them arising out of or in connection with this Agreement by entering into structured non-binding negotiations with the assistance of a mediator on a without prejudice basis. The mediator shall be appointed by agreement of the parties. If a dispute cannot be settled within a period of thirty (30) calendar days with the mediator, the dispute shall be referred to and finally resolved by an arbitrator appointed by agreement of the parties.

CONFIRMATION OF PROFESSIONAL LIABILITY INSURANCE

As required by by-laws of the Association of Professional Engineers and Geoscientists of British Columbia, it is required that our firm advises whether or not Professional Liability Insurance is held. It is also required that a space for you to acknowledge this information be provided.

Our professional liability insurance is not project specific for the project and should not be regarded as such. If you require insurance for your project you should purchase a project specific insurance policy directly.

Accordingly, this notice serves to advise you that ITSL carries professional liability insurance. Please sign and return a copy of this form as an indication of acceptance and agreement to the contractual force of these Terms of Engagement.

ACKNOWLEDGEMENT: _____

**- INTERIOR -
TESTING SERVICES
- LTD. -**

**MATERIALS TESTING • SOILS
CONCRETE • ASPHALT • CORING
GEOTECHNICAL ENGINEERING**

**1 - 1925 KIRSCHNER ROAD
KELOWNA, B.C. V1Y 4N7
PHONE: 860-6540
FAX: 860-5027**

Mr Fred Hamel
c/o Kent-Macpherson
Suite 304 – 1708 Dolphin Avenue
Kelowna, BC V1Y 9S4

June 28, 2017
Job 13.176

Attention: Mr Jordan Hettinga, B.Sc, RI

Dear Sir;

Re: **Additional Geotechnical Comments – Proposed House
405 Poplar Point Drive
Kelowna, BC**

As requested, Interior Testing Services Ltd (ITSL) provides the following preliminary comments with respect to foundation design and preparation for the above noted proposed home. Please see attached a one page site plan complete with slope cross-sections (prepared by others). In addition, we also attach copy of our two-page "Terms of Engagement" that applies to our work on this project, previously accepted and signed.

1.0 INTRODUCTION & SCOPE OF WORK

ITSL has previously provided a geotechnical review of the property, outlined in our report dated December 4, 2013.

Since then, we now understand that you intend to apply for a re-zoning of the above noted property in order to allow for construction of a second dwelling, which would parallel Herbert Heights road. We have been forwarded a site plan showing existing features and slope cross-sections (attached) as well as conceptual drawings showing the proposed home.

At this stage, we understand that you are considering connecting the proposed foundations to competent bedrock, which we noted as being the preferable foundation preparation option in our prior report. From a geotechnical perspective this appears reasonable. The intent of this letter is to provide preliminary comments and recommendations for foundation design and preparation.

2.0 DESIGN CONCEPTS & RECOMMENDATIONS

The prime consideration for foundation design for the proposed home is slope stability. For typical footings (strip footings), it is conventional to set foundations below a 2H:1V (26.5 degrees) line projected up from the toe of the downhill slopes. This line can also be projected up from the crest of downhill bedrock outcrops where they exist. This convention appears to be feasible for the very northeast section of the property (see attached cross-sections). However, toward the southeast area of the site, based on the provided slope cross-sections, ordinary foundations do not appear to be practical for house support, given the depth required to achieve the 2H:1V setback (see attached cross-sections).

To provide the necessary support for the proposed structure, our prior report noted that it would be preferable to connect the proposed foundations to competent bedrock. The intent of the structural connection to the bedrock is to provide adequate support to the foundations and to limit the load to the slope. By limiting the load to the slope, the driving force of a potential slide is reduced and an increased factor of safety is achieved, as compared to supporting the foundations directly on the slope.

As a preliminary comment, the proposed micro piles should be socketed into competent bedrock. Based on our experience in this area, the depth to competent bedrock will vary across the site. As outlined in our prior report, a deeper geotechnical investigation is recommended to identify the depth to the bedrock and to provide additional design guidance.

3.0 ADDITIONAL GENERAL COMMENTS

In our prior report, we recommended limiting the disturbance to the existing slopes. This would typically include not removing vegetation, which provides stability to the slope, and not imposing new significant loads to the slope crest. By adding grading fills, structures etc to the slope crest, the driving force of a potential slide is increased and the factor of safety against slope movement would be decreased.

We understand that it is intended to capture all site drainage water and direct it to the local storm system. From a geotechnical perspective this is reasonable. Water infiltration can reduce the factor of safety of a slope by decreasing the friction angle of otherwise dry soils. All water (driveway, house etc) should be directed in solid piping to the storm system or another suitable location downhill and away from the slope.

4.0 CONCLUSIONS

As outlined in our December 4, 2013 report, we understand that the City has adopted a 2% probability in a 50 year period as the required level of safety with respect to geotechnical hazards for developments. Provided that the proposed home is satisfactorily pinned to competent bedrock, by micro piles or similar, and that all drainage water is collected and directed offsite, it appears reasonable, in our opinion, to conclude that the above described home location, is suitable for the intended residential development and the geotechnical risk appears to be within the level of safety currently accepted by the governing authority. Please see the comments in our prior report dated December 4, 2013 for additional comments and recommendations for site development. We also recommend additional site investigations in order to provide further design comments.

While it appears reasonable to come to the opinion we have provided above with respect to 2% probability in a 50 year period, ITSL notes that the occurrence of a hazard event is always a possibility and cannot be construed as an error or omission on the part of ITSL or the City.

We trust the above comments are sufficient at this stage. After your review, please feel free to call and discuss if you have any questions.

Sincerely,
Interior Testing Services Ltd

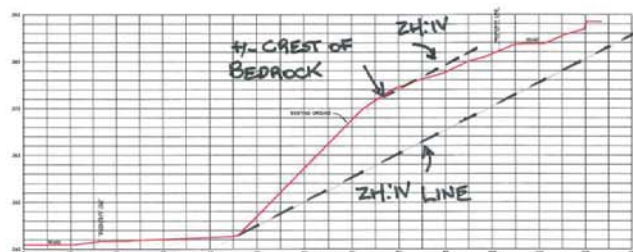
Prepared By:

Jeremy Block, P. Eng
Intermediate Geotechnical Engineer

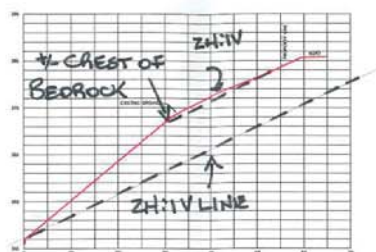
Reviewed By:

Peter Hanenburg, P. Eng
Principal Geotechnical Engineer

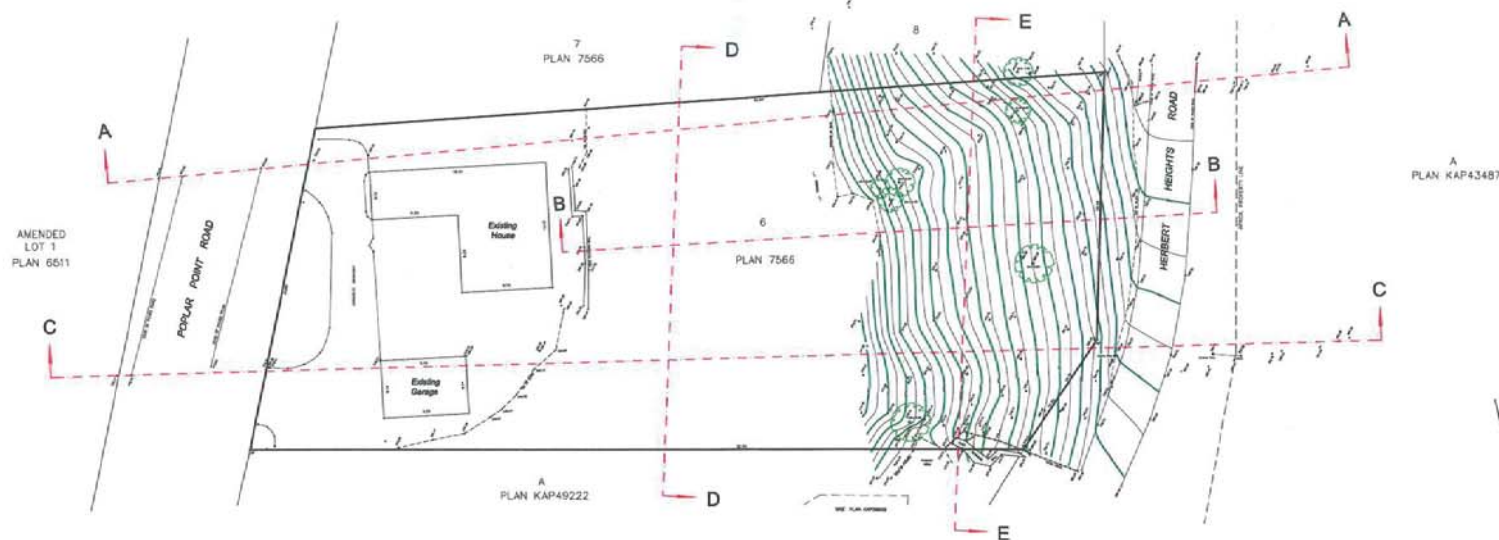
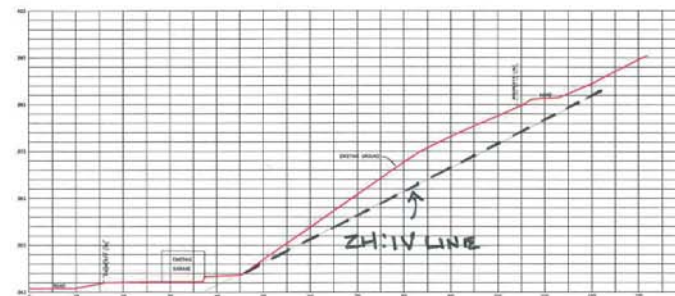
PROFILE A-A (SCALE 1:500)



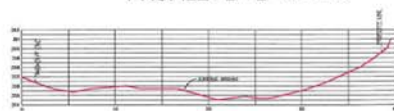
PROFILE B-B (SCALE 1:500)



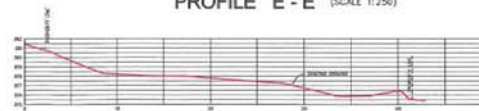
PROFILE C-C (SCALE 1:500)



PROFILE D-D (SCALE 1:250)



PROFILE E-E (SCALE 1:250)



LEGEND:

Elevations are Geodetic and are derived from
Canadian datum (1984) (NAD 83) (Elev. = 589.381)
Elevation interval = 0.5m

TITLE:

SITE PLAN AND CROSS SECTIONS OF PART OF LOT 6,
DISTRICT LOT 219. O.D.Y.D., PLAN 7566

DRAWN BY:

RUNNALLS DENBY
british columbia land surveyors
2554 Lawrence Avenue
Vancouver, B.C. V7T 6L2
(Email: runnallsdenby.com)

SCALE: 1:250 (22"x34")

DATE: NOV. 20, 2013

DWG: 13917 SITE 2

CLIENT:

FREDCO HOLDINGS

FILE NO: 13917

REV: 0

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ITSL's field investigation, laboratory testing and engineering recommendations will not address or evaluate pollution of soil or pollution of groundwater. ITSL will co-operate with the Client's environmental consultant during the field work phase of the investigation.

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- (e) any Project decisions made by the Client if the decisions were made without the advice of ITSL or contrary to or inconsistent with ITSL's advice;
- (f) any consequential loss, injury or damages suffered by the Client, including but not limited to loss of use, earnings and business interruption;
- (g) the unauthorized distribution of any confidential document or report prepared by or on behalf of ITSL for the exclusive use of the Client.

The total amount of all claims the Client may have against ITSL under this engagement, including but not limited to claims for negligence, negligent misrepresentation and breach of contract, shall be strictly limited to the lesser of our fees or \$50,000.00.

No claim may be brought against ITSL in contract or tort more than two (2) years after the Services were completed or terminated under this engagement.

PERSONAL LIABILITY

For the purposes of the limitation of liability provisions contained in the Agreement of the parties herein, the Client expressly agrees that it has entered into this Agreement with ITSL, both on its own behalf and as agent on behalf of its employees and principals.

The Client expressly agrees that ITSL's employees and principals shall have no personal liability to the Client in respect of a claim, whether in contract, tort and/or any other cause of action in law. Accordingly, the Client expressly agrees that it will bring no proceedings and take no action in any court of law against any of ITSL's employees or principals in their personal capacity.

THIRD PARTY LIABILITY

This report was prepared by ITSL for the account of the Client. The material in it reflects the judgement and opinion of ITSL in light of the information available to it at the time of preparation. Any use which a third party makes of this report, or any reliance on or decisions to be made based on it, are the responsibility of such third parties. ITSL accepts no responsibility for damages, if any, suffered by any third party as a result of decisions made or actions based on this report. This report may not be used or relied upon by any other person unless that person is specifically named by us as a beneficiary of the Report. The Client agrees to maintain the confidentiality of the Report and reasonably protect the report from distribution to any other person.

INDEMNITY

The client shall indemnify and hold harmless ITSL from and against any costs, damages, expenses, legal fees and disbursements, expert and investigation costs, claims, liabilities, actions, causes of action and any taxes thereon arising from or related to any claim or threatened claim by any party arising from or related to the performance of the Services.

DOCUMENTS

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CONFIRMATION OF PROFESSIONAL LIABILITY INSURANCE

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Accordingly, this notice serves to advise you that ITSL carries professional liability insurance. Please sign and return a copy of this form as an indication of acceptance and agreement to the contractual force of these Terms of Engagement.

ACKNOWLEDGEMENT: _____

SITE PHOTOS









CITY OF KELOWNA

MEMORANDUM

Date: Aug 01, 2017
File No.: Z17-0068
To: Community Planning (LB)
From: Development Engineering Manager(JK)
Subject: 405 Poplar Point

RU1 to RU6

The Development Engineering Department has the following comments and requirements associated with this rezoning application. The road and utility upgrading requirements outlined in this report will be a requirement of this development. The Development Engineering Technologist for this project is Jason Angus

1. Domestic Water and Fire Protection

This property is currently serviced with a 19mm-diameter copper water service. Two 19mm water services are required to meet current by-law requirements. An additional 19mm service can be provided by the City at the owner's cost. The applicant will be required to sign a Third Party Work Order for the cost of the water service upgrades. For estimate inquiry's please contact Jason Angus, by email jangus@kelowna.ca or phone, 250-469-8783.

2. Sanitary Sewer

Our records indicate that this property is currently serviced with a 100mm-diameter sanitary sewer service. No further utility upgrades are needed however, due to slope stability the City of Kelowna would like to see the second dwelling extend the sanitary main along Herbert Heights for connection to the sanitary sewer system at the applicants cost. The applicant will be required to sign a Third Party Work Order for the cost of the sanitary extension as well as all costs to install a second sewer service. For estimate inquiry's please contact Jason Angus, by email jangus@kelowna.ca or phone, 250-469-8783.

3. Storm Drainage Improvements

The developer must engage a consulting civil engineer to provide a storm water management plan for this site which meets the requirements of the City Storm Water Management Policy and Design Manual. The storm water management plan must also include provision of lot grading plans, minimum basement elevations (MBE), if applicable, and provision of a storm drainage service and recommendations for onsite drainage containment and disposal systems.

4. Road Improvements

- a. Poplar Point Drive must be upgraded to an urban standard along the full frontage of this proposed development, including sidewalk, pavement removal and replacement, boulevard landscaping, street lighting and re-location or adjustment of utility appurtenances if required to accommodate the upgrading construction. A

one-time cash payment in lieu of construction must be collected from the applicant for future construction by the City. The cash-in-lieu amount is determined to be **\$23,800.00** not including utility service cost.

- b. Herbert Heights Road must be upgraded to an urban standard along the full frontage of this proposed development, including sidewalk, pavement removal and replacement, boulevard landscaping, street lighting and re-location or adjustment of utility appurtenances if required to accommodate the upgrading construction. A one-time cash payment in lieu of construction must be collected from the applicant for future construction by the City. The cash-in-lieu amount is determined to be **\$28,300.00** not including utility service cost.
- c. Only the service upgrades must be completed at this time. The City wishes to defer the upgrades to Poplar Point Dr. and Herbert Heights Rd. fronting this development. Therefore, cash-in-lieu of immediate construction is required and the City will initiate the work later, on its own construction schedule.

Item	Cost
Sidewalk	\$17,100.00
Street Lighting	\$5,200.00
Road Fillet	\$10,800.00
Curb & Gutter	\$13,800.00
Blvd Landscaping	\$5,200.00
Total	\$52,100.00

4. **Development Permit and Site Related Issues**

- a) Vehicle access for the second dwelling must be from Herbert Heights Road

5. **Electric Power and Telecommunication Services**

The electrical and telecommunication services to this building must be installed in an underground duct system, and the building must be connected by an underground service. It is the developer's responsibility to make a servicing application with the respective electric power, telephone and cable transmission companies to arrange for these services, which would be at the applicant's cost.

7. **Design and Construction**

- (a) 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. Drawings must conform to City standards and requirements.
- (b) Engineering drawing submissions are to be in accordance with the City's "Engineering Drawing Submission Requirements" Policy. Please note the number of sets and drawings required for submissions.
- (c) Quality Control and Assurance Plans must be provided in accordance with the Subdivision, Development & Servicing Bylaw No. 7900 (refer to Part 5 and Schedule 3).
- (d) A "Consulting Engineering Confirmation Letter" (City document 'C') must be completed prior to submission of any designs.

- (e) Before any construction related to the requirements of this subdivision application commences, design drawings prepared by a professional engineer must be submitted to the City's Works & Utilities Department. The design drawings must first be "Issued for Construction" by the City Engineer. On examination of design drawings, it may be determined that rights-of-way are required for current or future needs.

8. Servicing Agreement for Works and Services

- (a) A Servicing Agreement is required for all works and services on City lands in accordance with the Subdivision, Development & Servicing Bylaw No. 7900. The applicant's Engineer, prior to preparation of Servicing Agreements, must provide adequate drawings and estimates for the required works. The Servicing Agreement must be in the form as described in Schedule 2 of the bylaw.
- (b) Part 3, "Security for Works and Services", of the Bylaw, describes the Bonding and Insurance requirements of the Owner. The liability limit is not to be less than \$5,000,000 and the City is to be named on the insurance policy as an additional insured.

9. Administration Charge

An administration charge will be assessed for processing of this application, review and approval of engineering designs and construction inspection. The administration charge is calculated as (3.5% of Total Off-Site Construction Cost plus GST).

9. Survey, Monument and Iron Pins

If any legal survey monuments or property iron pins are removed or disturbed during construction, the developer will be invoiced a flat sum of \$1,200.00 per incident to cover the cost of replacement and legal registration. Security bonding will not be released until restitution is made.

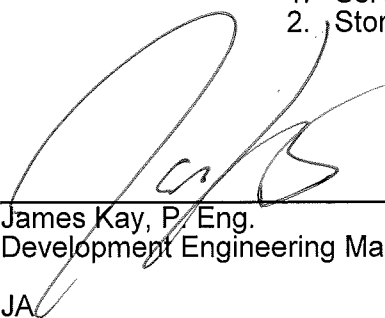
10. Bonding and Levy Summary

(a) Levies

1. Poplar Point Drive frontage improvements	\$23,800.00
2. Herbert Heights Rd frontage improvements	\$28,300.00

(b) Bonding

1. Service upgrades	To be determined
2. Storm Drainage System	To be determined



 James Kay, P. Eng.
 Development Engineering Manager

JA

REPORT TO COUNCIL



Date: October 30, 2017

RIM No. 1210-21

To: City Manager

From: Community Planning Department (MS)

Application: A16-0011 **Owner:** 0698329 BC Ltd.

Address: 1040 Old Vernon Rd **Applicant:** Benson Law LLP

Subject: Application to the ALC for a Non-farm Use on a property in the ALR (Demolition Recycling)

Existing OCP Designation: Resource Protection Area

Existing Zone: A1 – Agriculture 1

1.0 Recommendation

THAT Agricultural Land Reserve Appeal No. A16-0011 for Lot 2, Section 1, TWP 23, ODYD Plan KAP546, located at 1040 Old Vernon Rd, Kelowna for a non-farm use of agricultural land in the Agricultural Land Reserve pursuant to Section 20(3) of the Agricultural Land Commission Act, NOT be supported by Council; AND THAT Council directs Staff NOT to forward the subject application to the Agricultural Land Commission for consideration.

2.0 Purpose

To consider a staff recommendation NOT to support an application requesting permission from the Agricultural Land Commission (ALC) for a Non-Farm Use for wood and concrete recycling.

3.0 Community Planning

Community Planning does not support the application for a Non-Farm Use on the subject property in the Agricultural Land Reserve.

Staff acknowledges that the site has a history of a small sawmill prior to the creation of the ALR. However, the parameters of ALC decisions, including the most recent decision in 2000¹, have not been followed, leading to a further deterioration of the site, including impacting adjacent waterways, as well as nuisance impacts to adjacent farming operations, making it challenging for neighbouring farms to farm.

Staff concurs with the 2014 ALC² Resolution for the adjacent property, 982 Old Vernon Road, as well as the Ministry of Agriculture (attached), which states that they continue to believe that the former Russo Sawmill has capability for agriculture, including options for non-soil bound agriculture, and that industrial uses on the property would have an adverse impacts on adjacent farming operations.

¹ ALC, 2000. Resolution #437/2000 – 982/1040 Old Vernon Road.

² ALC, 2014. Resolution #92/2014 – 982 Old Vernon Road

Potential risks of expanded industrial operations to the property and adjacent farms include:

- Potential contamination to surface and ground water³;
- Potential groundwater rise and flooding potential (due to proposed concrete crush layer to support concrete waste piles, trucks and recycling equipment);
- Potential fires (previous cost to City of Kelowna for Fire Protection: \$80,000⁴); and
- Potential nuisance to nearby farms and residents⁵;

City of Kelowna Staff investigated the potential of using the residual wood from the Russo Sawmill for cogeneration and/or composting⁶. Unfortunately, over time, the wood has lost both the heat units required for cogeneration and the nutrient value (nitrogen and carbon factors) required for beneficial composting.

Staff notes that 1040 Old Vernon Road is within the Intensive Agriculture Area of the A1 – Agriculture 1 zone. Therefore, intensive agriculture such as poultry, mushrooms, and other intensive livestock operations would be permitted in this location under the bylaw. In addition, other non-soil bound agriculture is possible, including greenhouses and Medical Marihuana Production Facilities.

The Agricultural Advisory Committee unanimously defeated the application, expressing concern that the proposal is not consistent with policies and preservation of agricultural land and negatively impacts surrounding agriculture. The Committee also expressed concern that this places unnecessary strain on existing utilities not resourced for industrial use and opens industrial activity in a large ALR area and resulting negative impacts on maintenance of the ALR as an agricultural reserve.

Should Council wish to consider an alternate resolution, one has been provided in Section 7.0, which outlines an option for a Temporary Use Permit consistent with the terms of the ALC Resolution #497/2000, which states that permitted recycling activities include:

- Clean woodwaste recycling; and
- Pallet recycling.

ALC Resolution #497/2000 specified wood waste only, as was consistent with the previous sawmill operation and the Clean Wood Dropoff Zone permitted for the Russo Sawmill. It excludes concrete and general demolition waste, including drywall, wires, and metals.

4.0 Proposal

4.1 Project Description

The application is for a non-farm use from the ALC to operate a recycling facility for demolition and construction waste. Specifically, the proposal is to recycle concrete and wood on the subject property. A small volume of brick is anticipated. The owner has indicated that metal recycling is not the focus of the operation, and any incidental metal would be put in a container, and removed from the property when full. The disposal or recycling of gypsum board is not a part of this proposal.

The proposal includes crushing concrete for potential reuse in construction. Recycled concrete has potential reuse as a sub-base for sidewalks and non-structural fill. Dust mitigation is proposed through applying water to the crusher during processing. The owner has indicated that the crushed product would be spread over the site to provide a solid base upon which the concrete can be placed and trucks, screeners and crushers can

³ City of Kelowna, 2007, July 31. Bylaw Complaint, City of Kelowna tested water in dug outs finding high levels of toxins.

⁴ Valhalla Environmental Consulting Inc, 2013. Land Capability Assessment – 982 Old Vernon Rd p. 4

⁵ City of Kelowna, 2011 through 2016, Bylaw Complaints, City of Kelowna, various complainants.

⁶ Hoekstra, S. and Light, G., June 16, 2017. Personal Communication.

operate. The depth of crushed material would depend on the underlying soil and what would be needed to support roads, the concrete material and the crushing and screening equipment.

A large amount of large diameter wood waste remains on the site from the Russo Sawmill. This was primarily deposited from the mid 1980's to the early 2000's. Through discussions with City landfill staff, it was determined that, through time, this wood has lost much of its carbon value, such that the burning potential (BTU potential) has been diminished such that it is no longer suitable for cogeneration. Similarly, the nitrogen values have degraded such that the wood waste does not hold value as an additive to the City's Ogogrow program⁷.

The proponent has indicated that cogeneration of the existing wood may be possible with the addition of new wood received from demolition. The intention for the wood recycling is to seek a contract with a cogeneration plant, (the closest being Tolko in Armstrong). To date, a contract with Tolko has not been confirmed.

The use of **Recycling Plants**, as defined by the City of Kelowna Zoning Bylaw 8000, are permitted only in the I3 – Heavy Industrial zone and the 1-5 – Extraction zone. The use of **Concrete and Asphalt Plants** are permitted in the I3 – Heavy Industrial zone, I4 – Central Industrial and the 1-5 – Extraction zones⁸.

The application proposes a future land use of Industrial for the parcel, specifically I2 – General Industrial or I3 – Heavy Industrial. Such a use would require an Official Community Plan amendment to the Permanent Growth Boundary, the Future Land Use, and a rezoning amendment, should the City and the ALC approve the non-farm use from the ALR.

The City of Kelowna Landfill accepts demolition and construction waste at \$65.00 per metric tonne, and stumps at \$65.00 per metric tonne. Logs, limbs and branches are accepted at \$10.00 per metric tonne if they are cut to 1.2 m (4') lengths.

This application is seeking approval for the use from the Agricultural Land Commission. Should the use be approved, it would need to be further permitted by the City of Kelowna through a rezoning of the property, text amendment to the A1 zone, or a Temporary Use Permit.

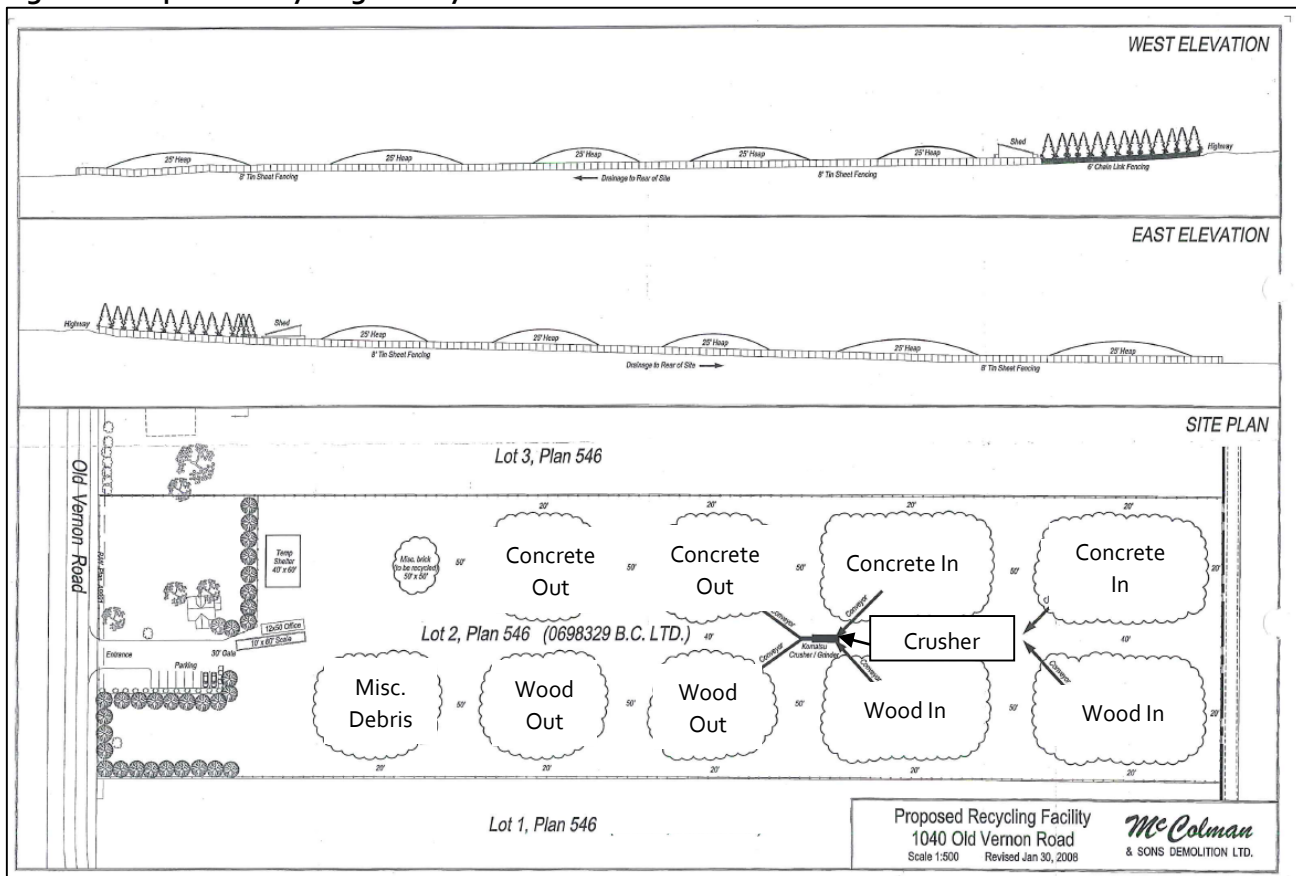
For wood recycling, an option for zoning is a Temporary Use Permit (TUP). Through a TUP, with a three year maximum window, with a three year possible extension, to provide the applicant to demonstrate that the wood recycling facility is done so as to reduce the existing wood but not impact future agricultural potential or adjacent farming operations.

A plan of the proposed operation is included below.

⁷ Hoekstra, S. and Light, G., June 16, 2017. Personal Communication.

⁸ City of Kelowna, 2017. Zoning Bylaw 8000 – Section 15 Industrial Zones

Figure 1. Proposed Recycling Facility



4.2 Background

In 1972, at the creation of the ALR, and prior to amalgamation of the site into the City of Kelowna, the Russo Sawmill footprint was approximately 1.0 ha (2.47 acres) at 1040 Old Vernon Road. The use was expanded through the years, with corresponding complaints to the ALC and applications to expand the use. The previous owners received conditional approval from the ALC to use additional areas of this site and portions of 982 Old Vernon Road for wood and sawdust storage.

Through the 1980's and 1990's, merchantable timber contracts became difficult to secure for a sawmill of this size, and the Russo Sawmill diversified into other products utilizing waste products from the mill and other sources. Clean wood waste material that would have been burned or buried was recycled into lumber or pallets at the sawmill site. It was designated as a 'Clean Wood Drop Zone' by the City of Kelowna and the Regional Waste Reduction Office. The sawmill would take stumps, non-merchantable timber, and clean wood waste and recycle them into lumber, pallets, wood chips and mulch which was then sold.

Two ALC resolutions permitted the expansion of the footprint beyond the original sawmill

- Resolution #993/85 permitted 1.7 ha of 982 Old Vernon Road to be used for **the storage of logs, lumber and sawdust.**
- Resolution #437/2000 permitted the use of all of 982 and 1040 Old Vernon Road **for sawmilling, woodwaste recycling/composting and pallet recycling.** This was subject to the conditions that Lot 1, 1124 Old Vernon Road would be reclaimed to agriculture, and that a fence be erected on the east, north and west property line.

However the non-farm uses according to the resolutions were not followed, leading to a further deterioration of the site, including impacts to adjacent waterways, as well as nuisance impacts to adjacent farming operations, making it challenging for adjacent parcels to farm. After the sale of the properties by the Russo's in 2004, the sawmill and its equipment was dismantled and is no longer there to enable the milling and construction of pallets or the chipping or mulching of wood waste.

In 2006, the current owner sent a letter to the City of Kelowna inquiring about establishing a concrete and wood recycling facility on the site⁹. The City of Kelowna Planning Department responded that, prior to the City of Kelowna's **consideration** of the use, any non-farm use would require the approval of the ALC and input from the Black Mountain Irrigation District¹⁰. The proponent contacted the ALC and subsequently provided a \$30,000 letter of credit to construct a fence around the property, which was an outstanding condition of the previous non-farm use approval through ALC Resolution #497/2000. The ALC then provided a letter stating that the use of the property for "*recycling of construction wood, metal, concrete and trees to be largely consistent with the sawmill/wood recycling non-farm uses permitted by Resolution #437/2000*", and further stated that there was "*no objection to the issuance of a business license for the recycling facility by the City of Kelowna*"¹¹.

In 2007, 1040 Old Vernon Road was purchased by McColman & Sons Demolition Ltd. (MDL). A business license was not issued for the use by the City of Kelowna. In June, 2007, the City of Kelowna advised that the legal non-conforming use (the sawmill) was no longer in existence, and the proposed recycling operation and the recent activities on the site extended beyond what was permitted by the historical use, and insisted that current operations cease¹². Site visits by City of Kelowna bylaw staff confirmed that the site was being used as a dump site for cement, drywall, household waste without regard for surface water running through the property and connecting to streams in the area¹³. In July, 2008, a site visit with ALC and City of Kelowna compliance staff revealed trenches with black dirty water and unsorted variety of building demolition materials including insulation, electrical wiring, roofing shingles, stove, cardboard, wood, tar paper and drywall. On July 29, 2008, a Stop Work Order was placed by the ALC on the site, citing that the recycling operations had expanded beyond the sawmill/recycling non-farm uses permitted through Resolution #497/2000, and that work must cease until the use be authorized through either an exclusion from the ALR or a non-farm use approval for the use.

This application is seeking approval for the use from the Agricultural Land Commission. Should the use be approved, it would need to be further permitted within by the City of Kelowna through a rezoning of the property, text amendment to the A1 zone, or a Temporary Use Permit.

More of the history of the site is included below.

⁹ MDL, Dec. 5, 2006. Letter re: Old Louis Russo Properties on Old Vernon Road Proposed Non-Hazardous Recycling Facility.

¹⁰ Email, Dec. 19, 2006. S. Gambacort, RE: Old Louis Russo Properties

¹¹ ALC, Jan. 25, 2007. Letter to A. McColman, MDL, RE: Lots 2 and 3, Plan 564 TWP 23, ODYD

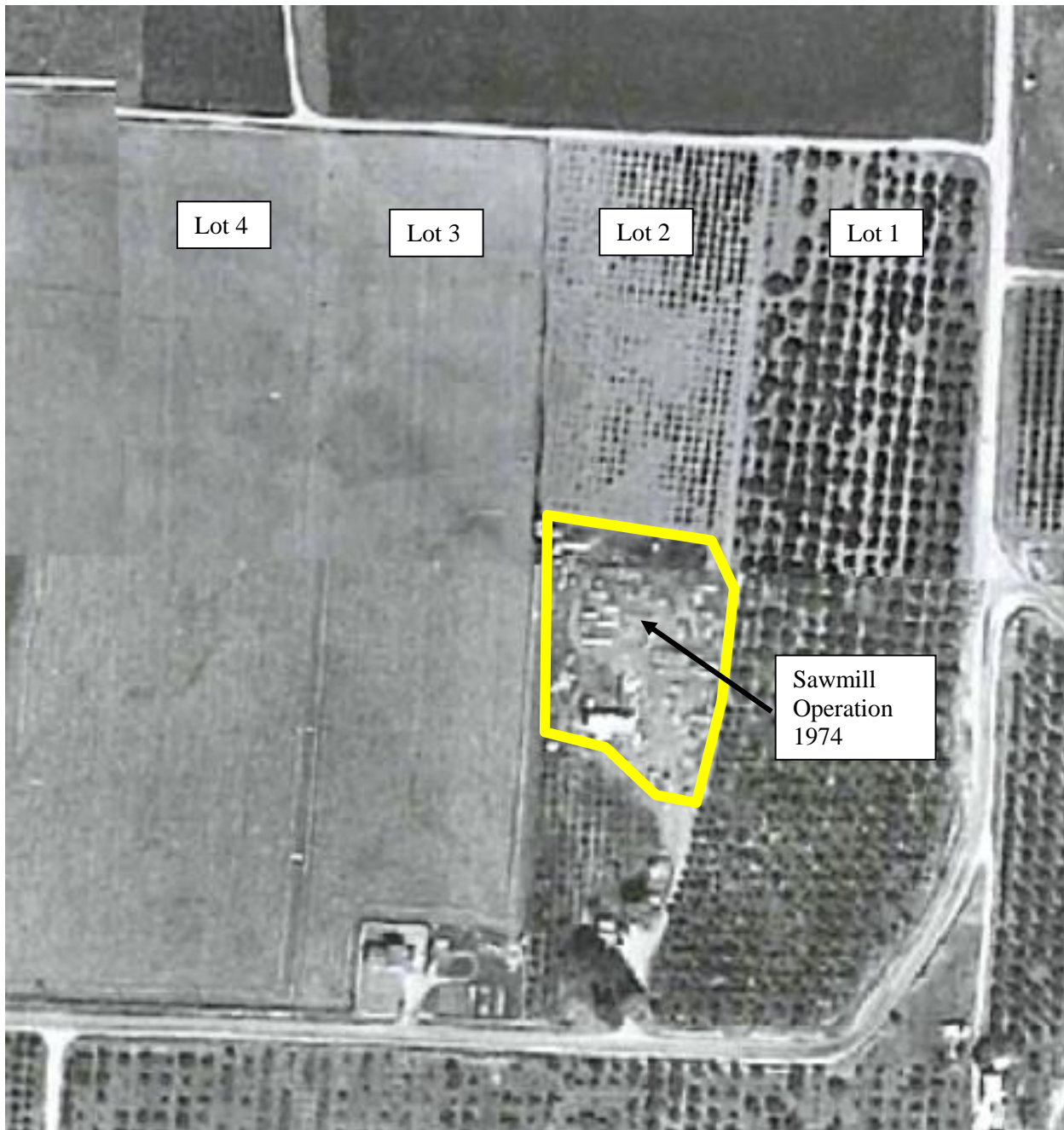
¹² City of Kelowna, June 18, 2007. Correspondence (per Application A16-0011)

¹³ City of Kelowna, July 31, 2008. Bylaw records

Air Photo 1970

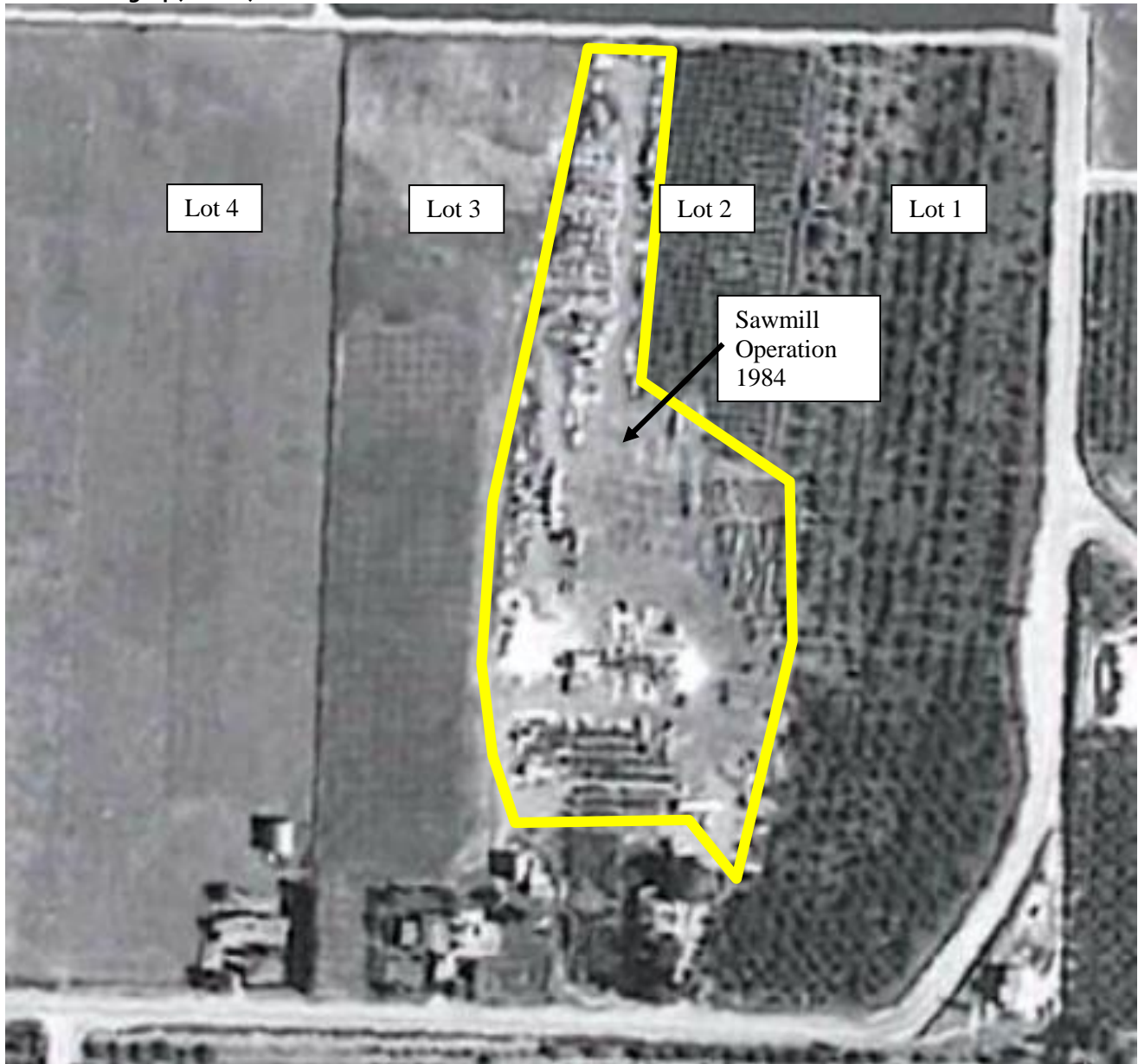


Air Photo 1976 (Russo)



In 1976, the sawmill operation focused on the subject property (Lot 2) 1040 Old Vernon Road. This was shortly after the establishment of the ALR.

Air Photo 1984 (Russo)



In 1984, the storage of logs and lumber was starting to encroach on Lot 3.

Air Photo 1985 (Russo)

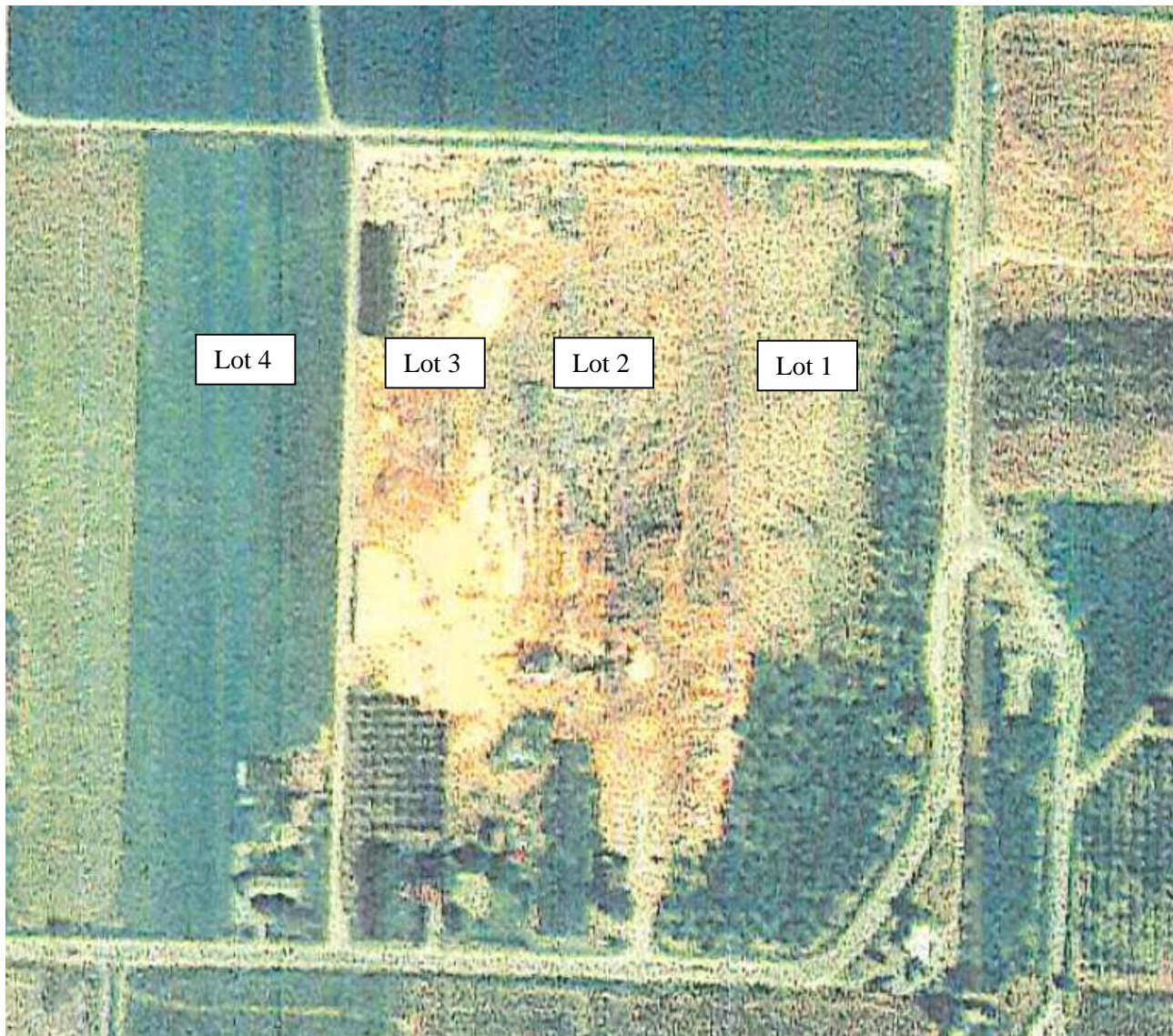


By 1985, the sawmill operation had expanded beyond the subject property, over 1.7 ha in area of Lot 3. In response to complaints from a neighbour, the owner made an application to the ALC to expand the sawmill operations to Lot 3. Through Resolution # 993/85, authorization was granted, for a limited area of 1.7 ha, specifically for storage of logs, lumber and sawdust. This resolution was subject to the owners to avoid placing gravel on the property, which was stunting the growth of the neighbours fruit trees and alfalfa, a complaint of the neighbour to the west.

Table 1

Date	Action	Result / Direction
Nov. 13, 1985	ALC Resolution #993/85	Authorization of 1.7 ha of Lot 3 for storage of logs, lumber and sawdust, subject to agreement of terms with neighbour.
March 5, 1985	ALC Letter of Clarification for Lot 2	Sawmill use authorized on Lot 2 as long as it the remainder of lot continued its use of agriculture. Any change to this would require ALC review.

Air Photo 1999 (Russo)

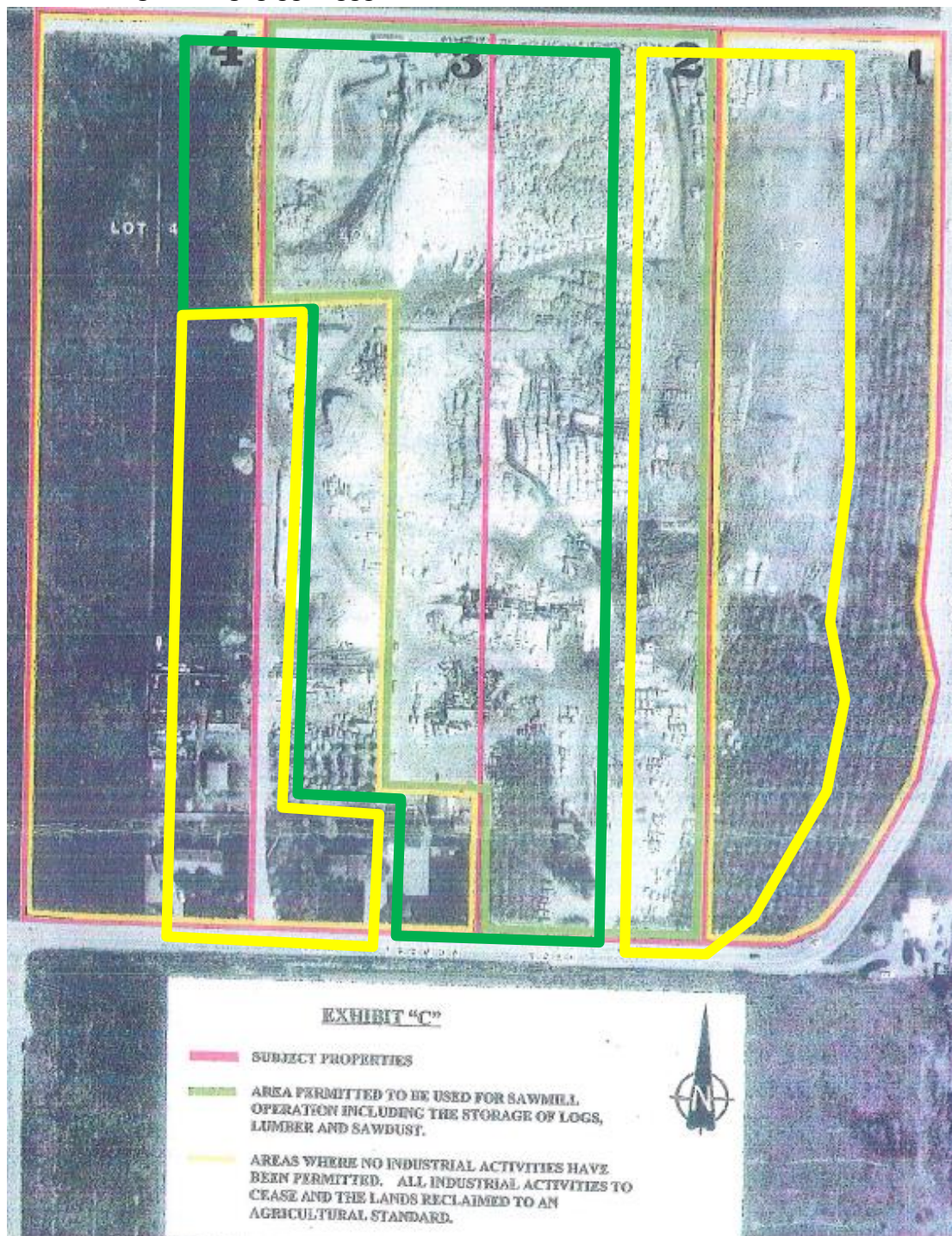


In 1998, due to neighbours complaints, the ALC conducted a site visit that revealed impacts on Lots 1, 2, 3 and 4, including a series of ditches and ponds to capture leachate from the operation. At the time, the ALC provided a letter in response to the expanded activities:

'the non-farm uses have expanded and diversified without the necessary ALC approvals..... From the Commission's perspective, the only authorized activity is the sawmill activity as it existed six (6) months before December 21, 1972 as amended by Resolution #993/85'.¹⁴

¹⁴ ALC, June 4, 1998. Letter to Russos from C. Fry, Agricultural Land Commission.

ALC Order #368 and 369/99 (1999)



Per ALC Order #368 and 369/99 (1999).

Green Area – Area Permitted for Storage of Logs, Lumber and Sawdust

Yellow Area – Area Must be Reclaimed for Agriculture

In June of 1998, the ALC issued an order to restore uses in accordance with 1985 Resolution. A site visit had determined that the owner had undertaken unauthorized non-farm uses including storage and processing of waste material and pallet recycling. This included restoring agriculture to all of Lot 1, and half of Lot 3, which was the area that had not been authorized through resolution #993/85 for the storage of lumber, logs and sawdust.

Table 2

Date	Action	Result / Direction
Aug. 7, 1997	ALC Compliance Letter <ul style="list-style-type: none"> • Reports of wood dumping, recycling, selling pallets. 	Comply to ALC Resolution #993/85.
April 21, 1998	City of Kelowna Compliance Letter <ul style="list-style-type: none"> • Breach of Soil Conservation Act, use contrary to approvals, and fire hazard. • On Regional Waste List for recycling wood. 	Direction to cease and desist any uses contrary to ALC Resolution #993/85. Removal from the Regional Waste List for recycling wood.
April 27, 1998	City of Kelowna Fire Prevention Officer Letter	Require that they comply with Fire Codes.
June 9, 1998	ALC Site Visit Report <ul style="list-style-type: none"> • Failure to comply with Neighbour Agreement per ALC Resolution #993/85. • Use contrary to approval, site now being used for wood waste recycling. • Dug outs collecting water. • Agriculture on Lot 2 almost completely gone. 	Direction to cease and desist any uses contrary to ALC Resolution #993/85.
Sept. 22, 1998	ALC Resolution #738/98 <ul style="list-style-type: none"> • Activities had expanded beyond the approval #993/85, both in area (Lots 1, 3 and 4), as well as use expansion into wood recycling. 	Require immediate blocking of affected water runoff to west. Fill in ponds. Consider fencing, vegetative screening to reduce impacts on adjacent ALR lands. Develop a restructuring plan, with a maximum area of 5.7 ha.
June 14, 1999	ALC Order # 368 and 369/99 <ul style="list-style-type: none"> • Requirement to restore any lands to agricultural standard not included in the #993/85 approval. • Requirement to post a bond of \$500,000 to ensure restoration of lands occurs. 	Require any lands over 5.7 ha approved in ALC Resolution #993/85 be restored to agriculture. Immediately stop importing waste materials to the properties.

Air Photo (2000)



By 2000, the focus on the sawmill dropped, and the site had become a construction material waste operation. In addition, it has expanded beyond Lot 2 and the 1.7 ha of Lot 3 permitted in 1985, to Lots 1 to the east and part of Lot 4 to the west. A series of complaints had been lodged to the ALC. Upon review, concerns of the ALC included:¹⁵

- Activities were inconsistent with the ALC and Soil Conservation Act;
- Demolition debris (e.g. drywall) did not make acceptable compost for a turf operation in the ALR; and
- Demolition debris could contain chemicals from glues and preservatives.

An application was made to the ALC to use all of Lots 2 and 3 as a sawmill, wood waste and pallet compost operation, with the conditions that the impacted area of Lot 1 was returned to agriculture, and that the compost was used to support a turf farm operation on Lot 4. In addition, the proposal included selling the compost from Lot 4, as a part of the 2000 application.

¹⁵ ALC, June 6, 2000. Resolution #437/2000.

ALC Resolution #437/2000 – The ALC resolution allowed sawmilling and woodwaste recycling/composting, and pallet recycling, as a use on the property. The ALC conditions required:

- Required the installation of a fence on the west, east and north boundaries;
- No composed material was to be placed in the ALR unless sanctioned by the ALC;
- No turf farming without soil sampling and testing to the satisfaction of the ALC; and
- Required the reclamation of Lot 1 to agriculture.

Table 3

Date	Issue	Action
	ALC Resolution #437/2000	<ul style="list-style-type: none"> • Granted permission to use all of Lots 2 and 3 for sawmilling, woodwaste recycling/composting and pallet recycling. However, the composting must be tested in accordance with ALC approval. No compost material is to be used in the ALR without ALC sanction. • Require a fence along entire east, west and north boundaries. • ALC has a \$30,0000 bond for fencing. • Lots 1 and 4 are to be returned to agricultural standard. • "Clean Wood" only.
2009		

Air Photo 2006



In 2007, McColman and Sons Demolition Ltd. purchased the property to operate it as a waste recycling company. They also own an industrial parcel on Neave Road, purchased in 2003, used for the operation.

Table 4

Date	Issue	Action
2006-2008		
Dec. 5, 2006	Letter from McColman & Sons Demolition Ltd. (MDL) to City of Kelowna asking for a variance to recycle wood, concrete and trees.	Email response Dec. 19, 2006
Dec. 19, 2006	CoK email to MDL, advising that the applicant would need to get ALC approval prior to the <i>consideration</i> of the City of Kelowna.	Letter from MDL Dec. 20, 2006
Dec. 20, 2006	MDL letter to CoK suggesting a dug out to address fire flow concerns and notice that they will contact the ALC.	Letter from ALC Jan. 4, 2007
Jan. 4, 2007	ALC letter to MDL advising that by Resolution #437/2000, the wood recycling facility was conditional on the reclamation of 1124 Old Vernon Road and the construction of a fence around the facility, north, west and east sides.	Letter from MDL Jan. 24, 2007
Jan. 24, 2007	MDL Letter to ALC providing a letter of credit to construct the fence.	ALC Letter Jan. 25, 2007
Jan. 25, 2007	ALC Staff Letter RE: Business License for McColman and Sons Demolition Ltd., stating that considered all conditions of #437/2000 to be substantially complete, and had no objection to the issuance of a business license for the recycling facility for construction wood, metal, concrete and trees, that it was largely consistent with Resolution #437/2000.	Subsequent purchase of property by MDL
June 18, 2007	CoK letter to MDL advising that the non-conforming use protection of the sawmill and the associated permitted recycling of wood permitted per Resolution #437/2000 was no longer in existence, and operations should cease immediately.	Note: No business license was issued to MDL from the City of Kelowna.
July 29, 2008	ALC correspondence to MDL advising that the operations had expanded beyond uses permitted in Resolution #437/2000, and issued a Stop Work Order pending an exclusion or non-farm use application.	Stop Work Order (ALC)
2008-05-13	Complaint of dumping mixed construction waste.	Advised to stop bringing materials on site.
2008-05-14 to 2008-05-28	Activities continue. Owner states all items are being recycled.	Attended site. Called owner, organized meeting.
2008-07-10	Site visit with City and ALC staff. Observed leaching of black water, variety of unsorted waste, including insulation, wiring, roofing shingles, stove, cardboard, wood, tar paper, and general demolition debris. Large amount of drywall in a crevice, appearing to be dumped verses ready to recycle. Cement crushing machine on site. ALC confirmed that the site was not being used as intended.	City and ALC staff attend.
2008-07-15	Cement and debris appear continue to be dumped. Observed oil like substance on a pond along with sludge, making its way to farmer's field.	Additional neighbour's complaints. Attended site.
2008-07-16	Staff attended noting additional material. Cardboard and metals are not separated as would be expected in a recycling operation. Materials do not appear to leave the site.	Additional complaints. Attended, requested testing of water.
2008-07-29	Dumping cement, drywall, household waste without regard for nearby streams City tested water finding high levels of toxins affecting drinking water for residents.	ALC Stop Work Order issued

Air Photo 2009



Table 5

2009		
2009-07-28	Staff attended, noted that much of the material had been ground up, and new material was not observed.	Attended site.
2009-08-05	Owner indicated that dumping of yard waste noted was without owner's permission.	Communication with owner.
2009-08-09	Staff noted the No Dumping sign removed.	Arrange for new posting, new stop work order.
2009-08-16	Staff asked ALC to give notice to remove items on the property not associated with approved use.	Staff contacted ALC.
2009-09-15	Complaint of storage of trailers, boats, trucks and backhoes.	Complaint – storage of trailers, boats, equipment.
2010		
2010-08-16	Discussion with ALC to send letter of non-compliance.	Discussion with ALC to send letter of non-compliance.
2011		
2011-02-23 to 2011-02-28	Staff found storage of derelict vehicles, debris, garbage cement contrary to zone.	Mailed 'Unsightly Premises' and 'Use contrary to zone' notice; spoke with ALC staff for progress report, spoke with owner.
2011-05-11	Meeting with ALC Staff and owner	Owner was to make an application to the ALC to get non-farm use approval for the operation.

Air Photo 2012



Table 6

2013		
2013-01-30	Confirmed with ALC staff that storage of demolition trucks not permitted.	Sent letter 'Use contrary to Zone'.
2013-04-04	Court date for ticket offence.	Owner plead guilty and paid fine.
2013-06-18 to	Staff attended with landfill manager, observed tons of mixed, contaminated demolition materials with wood. Concern regarding contaminants.	Copies of photos.

Air Photo (2015)



Table 7

2015		
2015-11-21 to 2015-12-14	Attended to find use of storage of containers, road stripping equipment, travel trailers.	Stop work order in place, issued ticket 'Use Contrary to Zone'
2016		
2016-02-11	Communication with owner's representative.	Business License on hold. No record business license to MDL had ever been issued.
2016-02-25	Attended to observe storage of bobcats, large machinery, contrary to use	Sent offence notice
2016-03-11	Attended finding no change.	Additional enforcement steps considered
2016-04-27 to 2016-05-11	Complaint issued, unsightly. Attended to observe storage of excavators on site	Issued ticket 'Use Contrary to Zone'
2016-07-07 to 2016-07-28	Attended to observe additional seacan, garbage on site.	Issued ticket 'Use Contrary to Zone'
2017		
2017-01-11	Staff communication with ALC staff. ALC have a \$30,000 bond for fencing (Resolution#437/2000).	ALC have given notice to owner that the fence must be up by May 1, 2017 or the bond will be cashed and used to build the fence by the ALC. No fence to date.

4.3 Site Context

The subject property is located in the Rutland Sector of the City and is within the Agricultural Land Reserve. It is zoned A1 – Agriculture 1 and is outside of the Permanent Growth Boundary.

Staff notes that 1040 Old Vernon Road is within the Intensive Agriculture Area according to the City of Kelowna Zoning Bylaw No. 8000. Therefore, intensive agriculture such as poultry, mushrooms, and other intensive livestock operations would be permitted in this location under the bylaw.

The property slopes gently from the southeast corner to the northwest, with less than 2.5% grade change, from 416 metres above sea level (masl) at the northwest corner up to 426 masl at the southeast corner.

Parcel Summary – 1040 Old Vernon Road:

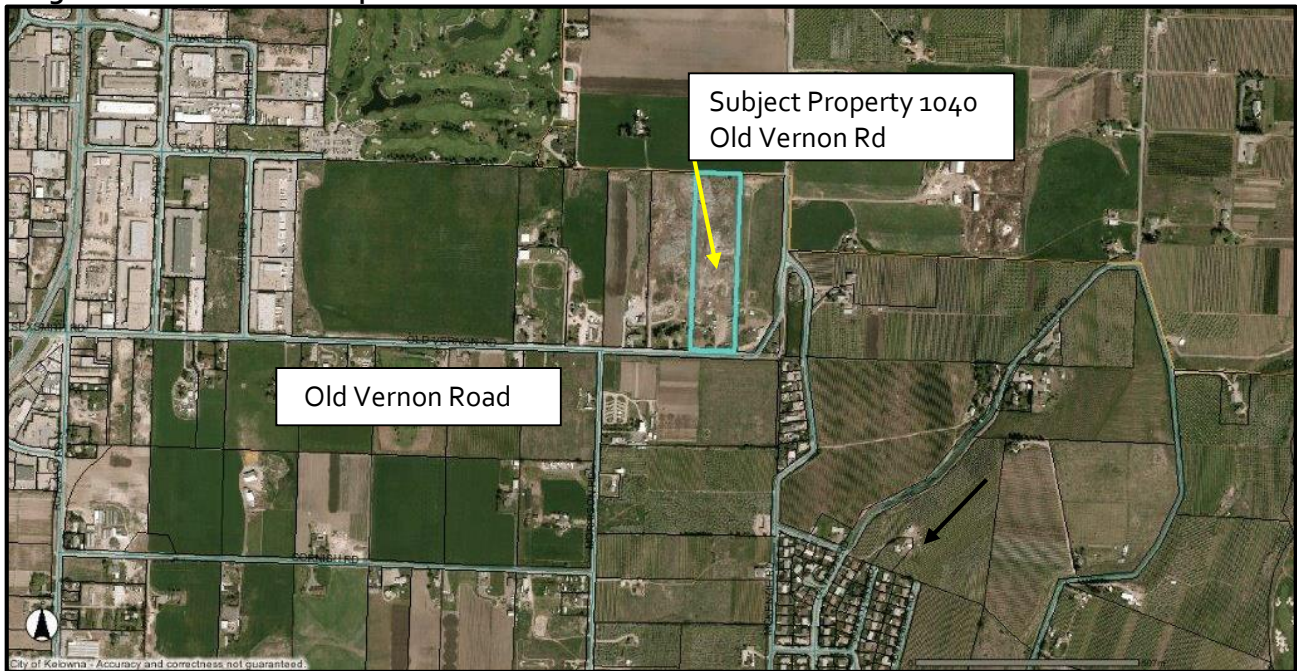
Parcel Size: 4.04 ha (9.99 acres)
Elevation: 416 to 426 metres above sea level (masl) (approx.)

The subject property lies within the Resource Protection Area for land use according to the Official Community Plan. The properties to the west, south and east are also within the Resource Protection Area Future Land Use. The properties to the north are outside Kelowna, within the Regional District of the Central Okanagan. Adjacent land uses are noted in the table below.

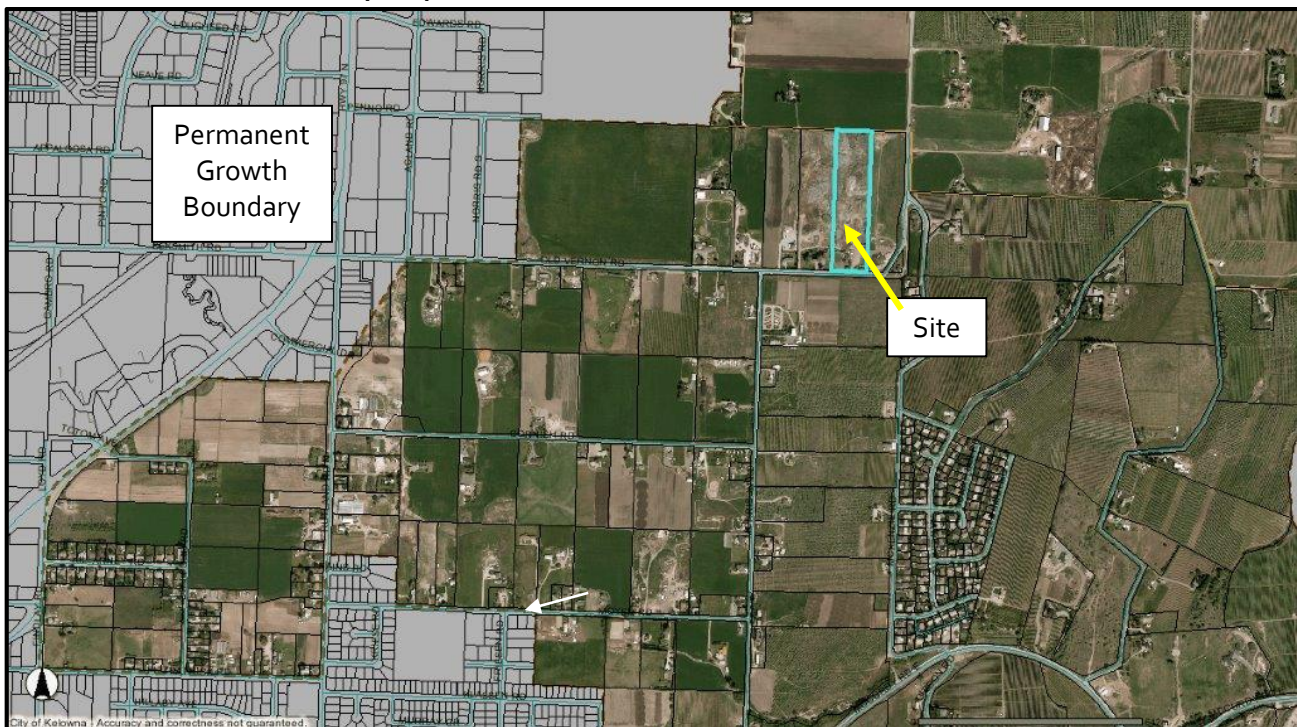
Table 8

Orientation	Zoning	Land Use
North	Agriculture (RDCO) / ALR	Agriculture
East	A1 - Agriculture 1 / ALR	Agriculture
South	A1 - Agriculture 1 / ALR	Agriculture / RV Park (Agri-tourism)
West	A1 - Agriculture 1 / ALR	Wood Waste Storage (also former log storage site for the Russo Sawmill)

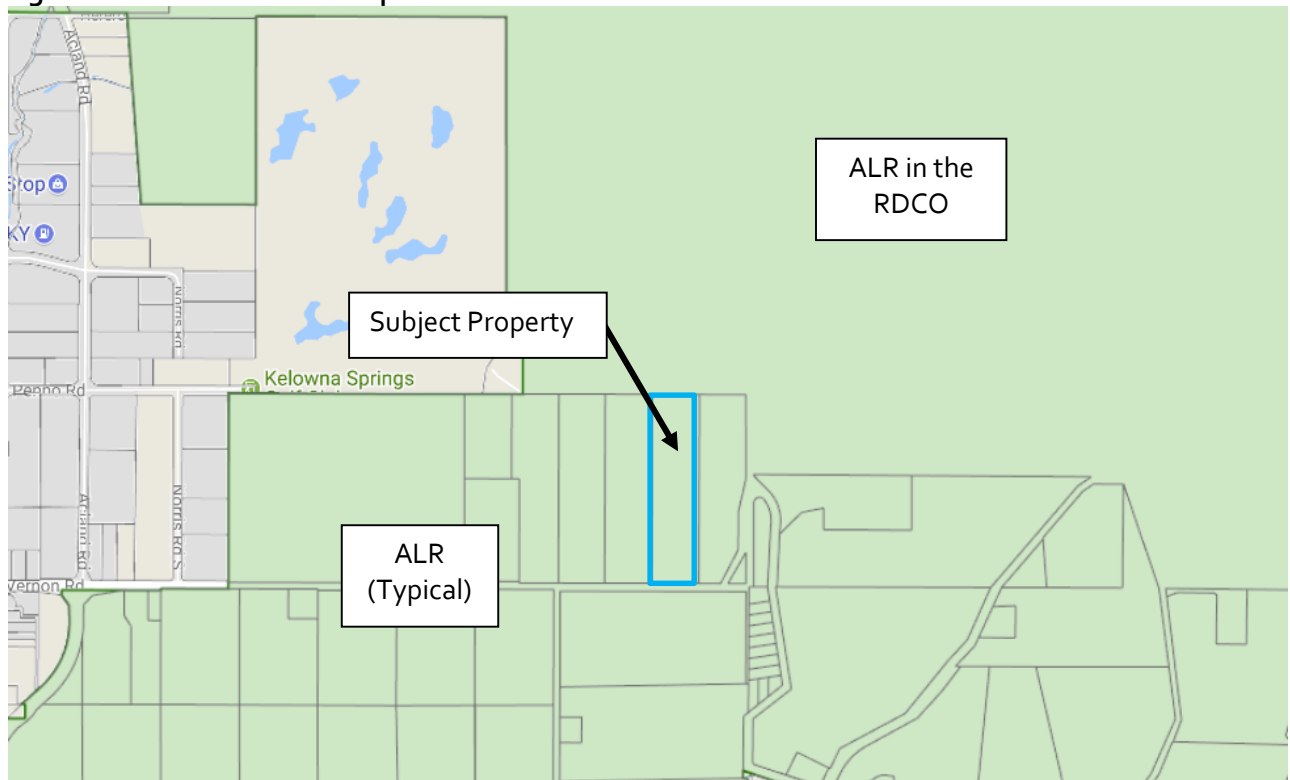
Neighbourhood Context Map



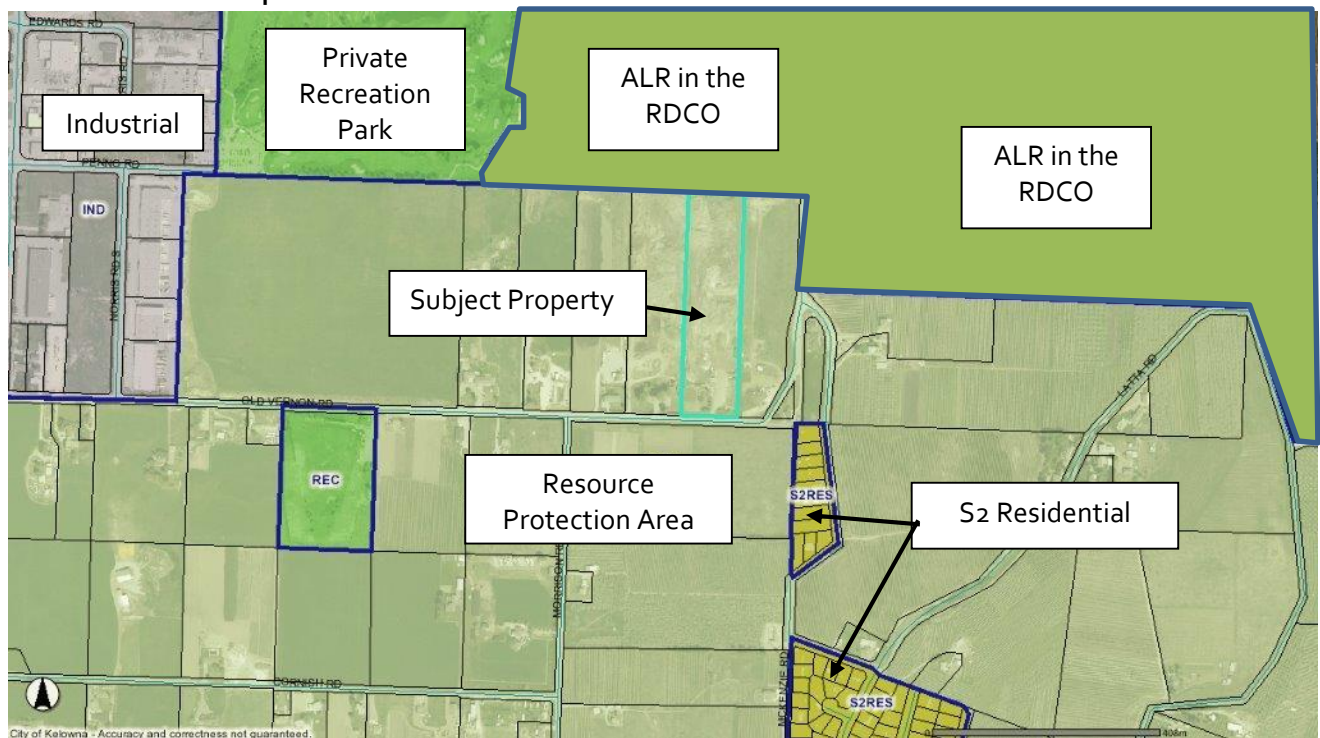
Permanent Growth Boundary Map



Agricultural Land Reserve Map



Future Land Use Map



4.4 Agricultural Capability Assessment

Staff notes that the Agricultural Capability Assessment¹⁶ was not prepared for the subject property, but for the neighbouring property (982 Old Vernon Road). The conclusions of the report, including the costs estimated to rehabilitate, are for the neighbouring property. The applicant has signed an affidavit stating that the treatment of the property and conditions are similar at the subject property, 1040 Old Vernon Road.

The agrology report indicates that 91% of 982 Old Vernon Road has an agricultural capability rating of Class 5, improvable to Class 3. Class 1 to 3 are considered prime agricultural land and relatively rare in the Okanagan. The required improvements include ditching in the spring, and irrigation in the summer months.

The report estimates the cost to rehabilitate the soil on 984 Old Vernon Road¹⁷, to improve it to a point where it could support soil based agriculture. This cost included the following for this site:

- \$150,000 – Wood waste grinding
- \$711,698 – Import and spread clean topsoil (27,375 m³)
- \$178,941 – Trucking of soil

The total estimated cost to improve the 984 Old Vernon Road to support soil based agriculture noted in the report is \$1,040,639, most of which includes the cost to import soil. It cites that the soil rehabilitation costs prohibit soil based agriculture.

For Intensive Non-Soil Bound Livestock, the report states:

For access reasons and potential conflict with neighbouring property owners this site is not suitable for non-soil bound livestock. However, it would not be feasible to rehabilitate this area for non-soil bound livestock due to the prohibitive costs of such improvements¹⁸.

For Intensive Non-Soil Bound Horticulture, the report states:

The site is largely level. After remediation this property could be made suitable for Non-soil bound horticultural agriculture operation. However, it would not be feasible to rehabilitate this area for non-soil bound horticulture due to the prohibitive costs of such improvements¹⁹.

4.5 Current Development Policies

4.6 City of Kelowna Agriculture Plan (1998)

ALR Application Criteria²⁰

Exclusion, subdivision, or non-farm use of ALR lands will generally not be supported. General non-support for ALR applications is in the interest of protecting farmland through retention of larger parcels, protection of the land base from impacts of urban encroachment, reducing land speculation and the cost of entering the farm business, and encouraging increased farm capitalization.

¹⁶ Valhalla Environmental Consulting, Jan. 2013. Land Capability Assessment 982 Old Vernon Road, (Lot 3) Kelowna, BC

¹⁷ Valhalla Environmental Consulting Inc., 2013. Land Capability Assessment – 982 Old Vernon Road, Kelowna, BC.

¹⁸ Valhalla Environmental Consulting Inc., 2013. Land Capability Assessment – 982 Old Vernon Road, Kelowna, BC.

¹⁹ Valhalla Environmental Consulting Inc., 2013. Land Capability Assessment – 982 Old Vernon Road, Kelowna, BC.

²⁰ City of Kelowna Agriculture Plan. 1998. P. 130.

4.2 City of Kelowna Strategic Plan

Objective²¹: Sensitively integrate new development with heritage resources and existing urban, agricultural and rural areas.

Action towards this objective²²: Evaluate the effectiveness of City policies and bylaws in preserving agricultural lands.

4.3 Kelowna Official Community Plan (OCP)

Land Use Designation Definitions

Resource Protection Area²³

Generally land areas within this designation (whether they are within the permanent growth boundary or not) will not be supported for exclusion from the ALR or for more intensive development than that allowed under current zoning regulations, except in specific circumstances where the City of Kelowna will allow exceptions to satisfy civic objectives for the provision of park/recreation uses.

Permanent Growth boundary

Lands within the permanent growth boundary may be considered for urban uses within the 20 year planning horizon ending 2030. Lands outside the permanent growth boundary will not be supported for urban uses.

Chapter 5 – Development Process

Objective 5.3 Focus development to designated growth areas.

Policy .1 Permanent Growth Boundary²⁴. Establish a Permanent Growth Boundary as identified on Map 4.1 and Map 5.2. Support development of property outside the Permanent Growth Boundary for more intensive uses only to the extent permitted as per the OCP Future Land Use designations in place as of initial adoption of OCP Bylaw 10500, except as per Council's specific amendment of this policy.

Agricultural Land Use Policies

Objective 5.33 Protect and enhance local agriculture²⁵.

Policy .1 Protect Agricultural Land. Retain the agricultural land base by supporting the ALR and by protecting agricultural lands from development, except as otherwise noted in the City of Kelowna Agricultural Plan. Ensure that the primary use of agricultural land is agriculture, regardless of parcel size.

Policy .3 Urban Uses. Direct urban uses to lands within the urban portion of the Permanent Growth Boundary, in the interest of reducing development and speculative pressure on agricultural lands.

Policy .6 Non-farm Uses. Support non-farm use applications on agricultural lands only where approved by the ALC and where the proposed uses:

- are consistent with the Zoning Bylaw and OCP;
- provide significant benefits to local agriculture;
- can be accommodated using existing municipal infrastructure;
- minimize impacts on productive agricultural lands;
- will not preclude future use of the lands for agriculture;
- will not harm adjacent farm operations.

²¹ City of Kelowna Strategic Plan. 2004. P. 7.

²² City of Kelowna Strategic Plan. 2004. P. 29.

²³ City of Kelowna 2030 Official Community Plan. Future Land Use Chapter. P. 4.2.

²⁴ City of Kelowna 2030 Official Community Plan. Development Process Chapter. P. 5.2.

²⁵ City of Kelowna 2030 Official Community Plan: Agricultural Land Use Policies Chapter. P. 5.35.

Zoning Bylaw 8000

Chapter 2 – Interpretation

RECYCLING PLANTS means a facility within which recyclable materials are recycled, sorted, processed, and treated to return the materials for re-use or as inputs to other processes, and may include Special Wastes under the *Waste Management Act*.

CONCRETE AND ASPHALT PLANTS means the processing, manufacturing, recycling, and sales of concrete and asphalt and the accessory manufacture and sales of products made from concrete and asphalt.

Chapter 15 – Industrial Uses

The use of Recycling Plants, are permitted only in the I3 – Heavy Industrial zone and the 1-5 – Extraction zone. The use of Concrete and Asphalt Plants are permitted in the I3 – Heavy Industrial zone, I4 – Central Industrial and the 1-5 – Extraction zones²⁶.

5.0 Technical Comments

5.1 Regional District of the Central Okanagan (RDCO)

RDCO staff provides the following response to the above-noted referral:

There is a lengthy history regarding the previous land use of this parcel. RDCO's Development Services Manager recalls that there may have been previous application(s) and QP reports completed in conjunction with those application(s). The City should ensure that they are satisfied that adjoining/neighbouring parcels will not be negatively impacted by industrial uses on the subject property.

5.2 Development Engineering Department

Dev Eng has no comments at this time, however, a comprehensive report will be provided at the time of development application submission with the ALC agrees to the proposed activity on the subject property.

5.3 Bylaw Services

Bylaw Services have provided a detailed listing of bylaw enforcement actions on the site, which has been summarized in the Background section of this report.

5.4 Fire Department

We would not be able to approve anything until we knew how all materials were processed. I would suggest that WorkSafe is contacted to comment on the processes as they really have a huge stake in this application. This is a complicated application that we would need to know more details.

It is difficult to comment on the use of the site as there is not enough information. The clean up of this property is important but until a processing plan is in place, it is difficult to approve on behalf of the fire department.

5.5 Ministry of Agriculture

The BC Ministry of Agriculture has provided a referral letter for the application, attached.

²⁶ City of Kelowna, 2017. Zoning Bylaw 8000 – Section 15 Industrial Zones
<https://apps.kelowna.ca/CityPage/Docs/PDFs/Bylaws/Zoning%20Bylaw%20No.%208000/Section%2015%20-%20Industrial%20Zones.pdf>

5.6 Agricultural Advisory Committee

Moved by Keith Duhaime/ Seconded by Domenic Rampone

THAT the Agricultural Advisory Committee recommends that Council support Agricultural Land Reserve Application No. A16-0011 for the property located at 1040 Old Vernon Road, Kelowna, BC to request permission from the Agricultural Land Commission for a Non-Farm Use to operate a recycling facility for construction and demolition waste on the subject property.

Defeated

ANEDOTAL COMMENTS:

The Agricultural Advisory Committee expressed concern that the application is not consistent with Policies and preservation of agricultural land and negatively impacts surrounding agriculture. The Committee also expressed concern that this places undo-strain on existing utilities not resourced for industrial use and opens industrial activity in a large ALR area and places negative impact on maintenance of ALR land.

The Agricultural Advisory Committee commented that if the city should move forward with this application a Temporary Use with no extension from 3 years to 6 years unless there is progress on the subject property is recommended; ensure concrete can be kept to a minimum; and request ALC receive sufficient bonding to clean the mess if the owner walks away.

6.o Application Chronology

Date of Application Received:	September 9, 2016
Date of Site Visit:	May 19, 2017
Date of Circulation and Review:	June 16, 2017
Agricultural Advisory Committee:	August 10, 2017
Date Public Consultation Completed:	None required for Non-Farm Use Applications

7.o Alternate Resolution

THAT Agricultural Land Reserve Appeal No. A17-0011 for Lot 2, Section 1, TWP 23, ODYD Plan KAP546, located at 1040 Old Vernon Rd, Kelowna for a non-farm use of agricultural land in the Agricultural Land Reserve pursuant to Section 20(3) of the Agricultural Land Commission Act, be supported by Council under the following conditions:

- THAT the recycling use is confined to those uses and terms of the ALC Resolution #497/2000, which states that permitted recycling activities include only clean wood waste recycling, including pallet recycling;
- THAT the recycling use specifically prohibits concrete and general demolition waste, including but not limited to drywall, wires, and metals;
- THAT the use is approved through a Temporary Use Permit only, with those time limitations as outlined through the Local Government Act;

AND THAT Council directs Staff to forward the subject application to the Agricultural Land Commission for consideration.

Report prepared by:

Melanie Steppuhn

Reviewed by:

☐

Todd Cashin, Subdivision, Suburban and Rural Planning Manager

**Reviewed by
Approved for Inclusion:**

☐

Ryan Smith, Community Planning Department Manager

Approved for Inclusion:

☐

Doug Gilchrist, Divisional Director, Community Planning & Real Estate

Attachments:

Site Photos

Applicant ALC Act Application

Ministry of Agriculture Referral Letter – A. Skinner

Agrology Report – Valhalla Environmental Consulting Inc. – 982 Old Vernon Road (2013)

PHOTOS

Photo 1. Unsorted Demolition Debris



Photo 2. Boards, Metal and Miscellaneous Unsorted Demolition Debris



Photo 3. Unsorted Demolition Debris Front and Middle – Older Wood Debris Top Right



Photo 4: Miscellaneous Demolition Debris - Unsorted



Photo 5: Unsorted Demolition Debris



Photo 6: Historic Wood Debris (Middle Left and Middle Right)



Photo 6: Historic Wood Debris



A16-0011

Provincial Agricultural Land Commission - Applicant Submission

Application ID: 55396

Application Status: Under LG Review

Applicant: 0698329 B.C. Ltd.

Agent: Benson Law LLP

Local Government: City of Kelowna

Local Government Date of Receipt: 06/03/2016

ALC Date of Receipt: This application has not been submitted to ALC yet.

Proposal Type: Non-Farm Use

Proposal: To establish a processing and recycling facility for wood, concrete, trees, and miscellaneous metals; only dry, clean, and non-hazardous materials would be allowed to be processed at the site. No liquids, paint, asbestos or PCBs (industrial products and chemicals) would be accepted. The materials would be received from contractors, developers, municipalities, and other local and provincial sources. Each load would be visually inspected, weighted, and re-inspected post-dumping, and each load will be tracked with a scale ticket outlining the material type, size, and weight. The property will be fenced using 6 foot high chain link around the perimeters of the property, as well as two entrance/exit gates approximately 30 feet wide each. The Agricultural Land Commission is currently holding a \$30,000.00 deposit paid by the Applicant for this purpose. The original scale foundations from the time of the sawmill operations still exist; a new scale will be placed in the same, original location. Wood waste will be mulched down to sizes ranging from 4mm to 12mm, concrete will be crushed to sizes ranging from 20mm to 63mm, and metals will be processed to various sizes as required by the end user. It is expected that the processed products will be used locally and provincially for new construction projects such as concrete for road base, wood for landscaping material and for burning for fuel in Armstrong's Cogenerators - to be turned into electricity and heat for district space or water heating - virtually all of the wood will be used, and the new wood material will be mixed in with the old wood material prior to shipping to the Cogenerators, thereby cleaning up the existing site at the same time. Metals will be re-used in their current state where possible, or melted and reshaped according to the specifications of the end-user.

Current Use of Parcels Under Application

1. Quantify and describe in detail all agriculture that currently takes place on the parcel(s).

None

2. Quantify and describe in detail all agricultural improvements made to the parcel(s).

Large amounts of wood waste have been removed from above-ground; there remain significant contaminants in the soil which would require great expense to remediate.

3. Quantify and describe all non-agricultural uses that currently take place on the parcel(s).

The property currently lies stagnant pending the outcome of this application. In or about 2007, the land was being used to process and recycle construction wood, metal, concrete, and trees; the ALC stated in a letter dated January 25, 2007, that they considered the processing and recycling of construction wood, metal, concrete, and trees, to be largely consistent with the sawmill/wood recycling non-farm uses permitted by the ALC by resolution in YR 2000. By letter of June 18, 2007, the CoK advised that the legal non-conforming use (the sawmill) was no longer in existence, and that both the proposed recycling operation and the recent activities on the site extend beyond what was permitted by the historical non-conforming use, and insisted that the recycling facility operations currently taking place on the site must cease immediately. By letter of July 29, 2008, the ALC advised that the recycling operations taking place on the property had expanded beyond the sawmill/wood recycling non-farm uses permitted by the ALC by resolution in YR 2000, and issued a stop-work order pending an exclusion or non-farm use application. The property has not been used as a recycling facility since in or about February of 2011.

Adjacent Land Uses

North

Land Use Type: Agricultural/Farm

Specify Activity: Hay Field/Small Family Farm known as "Kelowna Veggies"

East

Land Use Type: Residential

Specify Activity: Residential (small garden area on property)

South

Land Use Type: Commercial / Retail

Specify Activity: RV Lot; Small commercial canning business; ground/vine crops

West

Land Use Type: Other

Specify Activity: Sawmill Waste Site

Proposal

1. How many hectares are proposed for non-farm use?

4 ha

2. What is the purpose of the proposal?

To establish a processing and recycling facility for wood, concrete, trees, and miscellaneous metals; only dry, clean, and non-hazardous materials would be allowed to be processed at the site. No liquids, paint, asbestos or PCBs (industrial products and chemicals) would be accepted. The materials would be received from contractors, developers, municipalities, and other local and provincial sources. Each load would be visually inspected, weighted, and re-inspected post-dumping, and each load will be tracked with a scale ticket outlining the material type, size, and weight. The property will be fenced using 6 foot high chain link around the perimeter of the property, as well as two entrance/exit gates approximately 30 feet wide each. The Agricultural Land Commission is currently holding a \$30,000.00 deposit paid by the Applicant for this purpose. The original scale foundations from the time of the sawmill operations still exist; a new scale will be placed in the same, original location. Wood waste will be mulched down to sizes ranging from 4mm to 12mm, concrete will be crushed to sizes ranging from 20mm to 63mm, and metals will be processed to various sizes as required by the end user. It is expected that the processed products will be used locally and provincially for new construction projects such as concrete for road base, wood for landscaping material and for burning for fuel in Armstrong's Cogenerators - to be turned into electricity and heat for district space or water heating - virtually all of the wood will be used, and the new wood material will be mixed in with the old wood material prior to shipping to the Cogenerators, thereby cleaning up the existing site at the same time. Metals will be re-used in their current state where possible, or melted and reshaped according to the specifications of the end-user.

3. Could this proposal be accommodated on lands outside of the ALR? Please justify why the proposal cannot be carried out on lands outside the ALR.

This property has lied stagnant since 2011. It has not been used in agriculture production since the 1950s. It was included into the ALR when the Reserve was established in 1974-1976, and was, at that time, operating as a sawmill. The sawmill operation continued until the neighbouring property (982 Old Vernon Road) was purchased by the Kandolas in 2005. Since its introduction into the ALR, the property in question has never been used for an agricultural purpose. As a result of the sawmill operations, the property has been contaminated to the point that significant rehabilitation would be required in order to render the property capable of agricultural production. The estimated costs of such rehabilitation, as per an agrologist's report completed by Valhalla Environmental Consulting Inc. in January of 2013, is \$1,040,639.00. The cost of the remaining improvements and rehabilitation that are necessary to prepare this property for agricultural use are not feasible, and the required improvements greatly exceed what would be considered typical farm improvement practices, both in terms of the scope and costs. However, the Applicant believes that the recycling facility proposed by the Applicant will provide a means for the Applicant to use the property in a meaningful way, while at the same time cleaning up the decades worth of wood waste that has been allowed to be dumped on and contaminate the property and its soil.

4. Does the proposal support agriculture in the short or long term? Please explain.

As set out above, the Applicant believes that the recycling facility will allow for the long term clean-up and rehabilitation of the property, as well as potentially the neighbouring property of the Kandolas. The recycling facility would be expected to allow the Applicant to remove the decades worth of wood waste currently contaminating the property, without the large monetary cost that would otherwise be associated

with the property's cleanup. The wood waste currently on the property will be mixed up with the incoming fresh wood, and be sent to the Cogenerators in Armstrong to be used in its entirety and turned into electricity and heat. Subsequent owners of the property will inherit a property that is significantly rehabilitated from its current state, such that the costs of having the property rehabilitated for agricultural use will no longer be prohibitive. The Applicant believes that allowing the recycling facility to operate as a non-farm use in the short term will allow the property to be reclaimed for an agricultural purpose in the long term, thereby resulting in a benefit to local agriculture.

Applicant Attachments

- Agent Agreement - Benson Law LLP
- Proposal Sketch - 55396
- Site Photo - Map of Surrounding Property
- Other correspondence or file information - Company Summary
- Site Photo - Overhead View of Property
- Professional Report - Agrologist Report
- Certificate of Title - 012-206-661

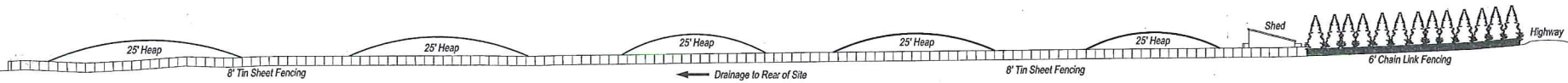
ALC Attachments

None.

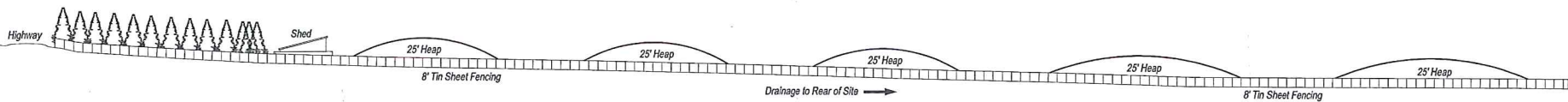
Decisions

None.

WEST ELEVATION



EAST ELEVATION



SITE PLAN

Lot 3, Plan 546 (KANDOLA, Jeetender Singh)

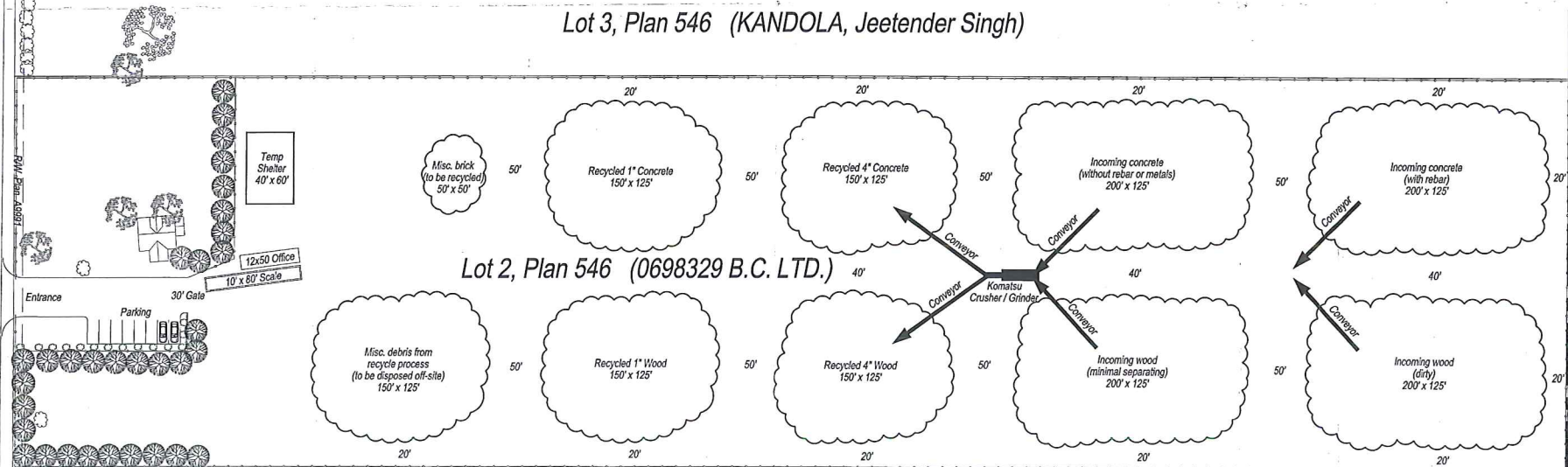
Lot 2, Plan 546 (0698329 B.C. LTD.)

Lot 1, Plan 546 (BARTZ, Robert Carl)

Proposed Recycling Facility
1040 Old Vernon Road
Scale 1:500 Revised Jan 30, 2008

McColman
& SONS DEMOLITION LTD.

Old Vernon Road



Hay Fields

OKANAGAN LA

SITE
UNDER
APPEAL

PLAN 546

PID:

012-206-661

LOT 2

Title #:

LB11776

LOT 1
RESIDENTIAL

Small
Garden
/Crop

REGIONAL DIST
OKANAGAN LA

LOT 4

LOT 3

MILL
WASTE

MILL
WASTE

HOME SITES

HOME SITES

RESIDENTIAL

ANNUAL
GROUND CROP

VINE CROP



File: A-16-0011 Old Vernon Rd 1040

To: City of Kelowna

Comments for consideration regarding ALR application for non-farm use @ 1040 Old Vernon Road:

- Current state of the property & costs of clean up are acknowledged, the proposed use as a recycle operation will provide opportunity to substantially clean up the site and allow for return to agriculture use. Note, non-farm uses are considered by ALC to allow for the greatest flexibility for future agricultural use.
- Information to support the current level of contamination and compaction on the site and associated costs to return to an agriculture use are not clear. Soil capability subclasses provide insight into management considerations but don't preclude agricultural production.
- Options for non-soil based agriculture enterprises, or future use of land could be considered as agriculture production, practices & markets change over time, (greenhouse, poultry, swine etc). The parcel is situated and supported as a farming area, productivity of surrounding orchards should be considered.
- Commercial/industrial businesses have the option to locate within other areas; farming depends on access land in the ALR for primary production. Long term access to ALR lands is in the interest of agriculture & food security.
- Short term non-farm use would provide flexibility to facilitate site cleanup and maintain future agriculture use. Recycle operations focussed on a layout that uses parcel 1040 for the highest impact activities with measures in place to contain any potential for further contamination of soils (catchment, non-porous foundation etc). A plan that demonstrates intention to minimize additional impacts to the long term agriculture capacity would be a win for this property I think.
- Non-agricultural use of ALR, has potential to create conflict or be incompatible with adjacent agriculture practices. Recycling of concrete & metals specifically may bring challenges with respect to further site contamination, noise and dust disturbance. These activities would not be protected by the Farm Practices Protection Act and subject to City of Kelowna Bylaws.
- Regardless of adjacent current agriculture use, consider adequate set-backs & buffers to address noise, dust and visual disturbance from the operations. Vegetative buffers are more effective but take time to establish, strategic fencing can help to mitigate conflict and disturbances ["Guide to Edge Planning" BC Ministry of Agriculture]

Thanks for the opportunity to comment.

Anne Skinner *P.Ag* – Regional Agrologist
BC Ministry of Agriculture, Kelowna
250-861-7272 Email: anne.skinner@gov.bc.ca

**Land Capability Assessment
982 Old Vernon Rd., Kelowna, BC
Lot 3, Plan 546, Section 1, Township 23, ODYD
PID 012-206-687**

**For: Kandola
982 Old Vernon Rd.,
Kelowna, BC V1X 6T8**

File: 12E043

January 9, 2013

Executive Summary

Valhalla Environmental Consulting Inc. (VEC) was retained by Manraj and Jeetender Kandola (Landowners) of 982 Old Vernon Rd., Kelowna, BC to complete a Land Capability Assessment for agriculture on a parcel in the City of Kelowna, BC. The purpose of this inspection was to assess the agricultural capability and suitability of the Subject Property. The Clients requested this inspection to explore their land use options on the Subject Property that is wholly within the Agricultural Land Reserve (ALR).

The Subject Property is 982 Old Vernon Rd., Kelowna, BC and is legally described as Lot 3, Plan 546, Section 1, Township 23, ODYD, PID 012-206-687. The site is a 4 hectare (10 acre) parcel and is entirely contained within the ALR. The site was used as a wood mill from the 1950s to the 2000s.

This assessment determined that +/-91% (3.65 ha) of the property area has an unimproved rating of Class 5 agricultural capability due to a soil moisture deficit in the summer, and excess water conditions in the spring, fall and winter. This area is improvable to Class 3 with the addition of irrigation in the warm months and water control such as ditching and/or artificial drainage for the spring, fall and winter months. A root restricting layer and low perviousness were consistent across the property and represented a soil structure limitation of Class 3. The soil structure limitation is less severe than the soil moisture limitations and may be improvable by an intensive and costly process of removal of poor quality admixed fill, decompaction of the underlying clay layer, and replacement of top soil to a depth of at least 0.75m.

The Subject Property was included in the ALR when the reserve was established (1974-1976), but apparently was permitted to continue with the industrial non-farm use (sawmill) that pre-dated the ALR. As the mill operated into the mid 2000's cumulative impacts have occurred over 35+ years since the inclusion of the Subject Property into the ALR. The Landowners report that to the best of their knowledge, the Subject Property has not been used for agricultural purposes since the 1950's. Site improvements have been done by the current Landowners to remediate some of the impacts of the historic use and rehabilitate the site. Though significant, these improvements have not been completed as they have proved to be economically non-feasible for an end-use of agricultural purposes. The recovery of the rehabilitation and improvement expenses by an agricultural production operation would be unlikely and may prove to be economically prohibitive.

While the landowners are exploring several options for future land uses of the Subject Property, they have not decided upon a specific activity at this time. However, due to the significant amount of site rehabilitation yet required, it may be difficult for them to recover their total investment costs.

The Subject Property does not contribute to regional and local Agricultural Capacity. The Subject Property has not been farmed since the 1950's, during which time it

appears that the agricultural capability has continued to deteriorate. Continued industrial use on the Subject Property will not adversely affect the local Agricultural Capacity.

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APPENDICES

APPENDIX A: Maps & Figures – 982 Old Vernon Rd., Kelowna BC

APPENDIX B: Site & Soil Pit Photos - 982 Old Vernon Rd., Kelowna BC

APPENDIX C: Agricultural Capability Reference Documents (Excerpts)

APPENDIX D: Analytical Data - 982 Old Vernon Rd., Kelowna BC

1 Introduction

1.1 Report Description

Valhalla Environmental Consulting Inc. (VEC) was retained by Manraj and Jeetender Kandola, land owners of 982 Old Vernon Rd. Kelowna, BC, to complete a Land Capability Assessment for agriculture on a parcel in the City of Kelowna, BC. The purpose of this inspection was to assess the agricultural capability and suitability of the Subject Property. The Client requested this inspection to explore their land use options on the Subject Property that is wholly within the Agricultural Land Reserve (ALR).

1.2 Proposed Land Use & Agricultural Development Plan

The purpose of the assessment is to classify the land capability for agriculture of the site to explore land use options for the Subject Property. The proposed future land use is industrial.

1.3 Statement of Qualifications

Matthew Davidson, P.Ag., Senior Environmental Scientist, **Assessor**

Matthew is an Environmental Scientist and consulting Professional Agrologist with 11 years experience in environmental assessments, impact assessments, soil surveys, land remediation, reclamation and ecological restoration. Matthew has been a registered professional agrologist (PAg) in British Columbia since 2008.

Catherine Orban, P.Ag., Senior Agrologist, **Report Review**

Catherine Orban has a Master of Science Degree in Geography, specializing in Soil Science. She has been conducting soils assessments since 1985. She has been a registered professional agrologist (PAg) since 1999, first in Alberta, and later in British Columbia. Catherine has worked on a variety of soils assessment, management, remediation and reclamation projects in the agricultural, oil and gas, and environmental sectors in both provinces.

2 Site Conditions & Land Use

2.1 Site Conditions

The Subject Property is 982 Old Vernon Rd., Kelowna, BC and is legally described as Lot 3, Plan 546, Section 1, Township 23, ODYD, PID 012-206-687. The site is a 4 hectare (10 acre) parcel and is entirely contained within the ALR. The site is approximately level and was used as a wood mill from the 1950s to the 2000s. See Appendix A Figures 1 & 2 for more detail on site size and location.

2.2 Land Use: Subject Property and Surrounding Area

Approximately 0.36 ha of the property is built upon and used for the residential purposes at this location. Buildings on the Subject Property include one house and storage shed. Outside of the buildings is residential yard and parking area. The remaining area 3.64 ha has been used historically as the mill site. Wood waste, equipment parking and gravel roads encompass this area. Past agricultural uses were unknown to the landowner as the site has operated as a mill from the 1950's to 2005.

The zoning for the subject property is Agriculture 1 (A1) which permits 4 ha lots, except when in the ALR where 2 ha lots are permitted. A1 zoning also allows one detached home, one mobile home and one accessory building home per lot.

Adjacent properties to the south, east and west have Agriculture 1 (A1) zoning. Southeast of the property is a subdivision (outside of the ALR) that has been constructed with a combination of Rural Residential 3 (RR3) (this zoning permits 1 ha lots un-serviced and fully serviced lots at 0.16ha) and Two Dwelling Housing (RU6) (allowing lot sizes down to 0.04 ha). West southwest of the property is a property with Parks and Open Spaces (P3) zoning which remains in the ALR and is used as a golf driving range. The properties adjacent to north are cultivated fields and are in the RDCO.

Table 1: 982 Old Vernon Rd., Kelowna, BC – Surrounding Land Use

Location	Land Use	ALR Status	Approximate Lot Size ha
Subject Site	old mill / residential	In	4
North	residential / hay field	In	8
Northwest	golf course	Out	43
West	hayfield / commercial lot	In	4
South	hayfield / residential / RV parking	In	8
Southeast	subdivision	out	18
East	old mill / residential / commercial	In	4

2.2.1 Historic Land Use

The Subject Property was included in the ALR when the reserve was established (1974-1976), but apparently was permitted to continue with the industrial non-farm use (sawmill) that pre-dated the ALR. As the mill operated into the mid 2000's cumulative impacts occurred over 35+ years from the inclusion of the Subject Property into the ALR. The Landowners report that to the best of their knowledge, the Subject Property has not been used for agricultural purposes since the 1950's. To date, a number of site improvements have been completed to remediate some of the impacts of the historic industrial use and rehabilitate the site. Though significant, these improvements and rehabilitation have not been completed as they have proved to be economically non-feasible for an end-use of agricultural purposes. A summary of the remediation work to date and estimated costs of remaining agricultural rehabilitation can be viewed in below, sections 2.2.2 and 2.2.3.

2.2.2 Improvements to Date

The current Landowners obtained the Subject Property in 2005. Since 2005 the Landowners have undertaken the following improvements to remediate some of the impacts from historic land uses. The information for improvements to date has been provided by the Landowner, Manraj Kandola through personal communication (pers.comm. – MK). All costs are approximate.

2005

- Land purchased by current owners 4.01 ha (10 acres) at 982 Old Vernon Rd *metric is generally used for volume and area calculations – eg. 0.75 m topsoil*
- Upon purchase Landowners shut the sawmill down, as it was outdated and hazardous.
- ~122,330 m³ (160,000 yards³) of wood waste was stockpiled on the Subject Property at this time

2006

- Controlled curtain burner set up for 3 months to eliminate wood waste
- Approximately \$100,000 was spent to reduce total wood waste volume

2007

- Numerous fires caused by spontaneous combustion of the wood waste
- City of Kelowna, Fire Department attended the site numerous times
- Largest fire attended by City of Kelowna fire department required them on site for 3 days to containing the fires, which cost the City of Kelowna approximately \$80,000.
- Private water tankers and excavators were employed full time by the Landowners to control the fires
- Landowners purchased fire equipment for the site at a cost of \$50,000

2008-2011

- Contractor hired to screen and truck the wood waste to a cogeneration plant in Armstrong, BC (Tolko)

- \$25,000 in additional costs incurred
- Wood waste screening (~75% of volume remaining) was done to mitigate fire risks and facilitate further site rehabilitation
- An oversized pile of wood waste remains which requires grinding
- As of 2012, approximately 100,000 m³ (130,000 yd³) of the original 122,330m³ (160,000 yd³) of wood waste have been processed and/or removed from Subject Property. Currently, approximately 23,000m³ (30,000 yd³) of wood waste remains on the Subject Property.

Approximate costs incurred to date for rehabilitation by property owners: **\$175,000;**
and

Cost to City of Kelowna for Fire Protection: \$80,000

2.2.3 Future Improvements

To be suitable for intensive soil bound agriculture, the Subject Property requires additional rehabilitation and improvements including:

- Wood waste grinding of oversized materials, approximate costs provided by a grinding contractor **\$150,000** (pers.comm. – MK)
- Import and spread clean topsoil to a depth of 0.75m for 3.65 hectares (27,375m³ or 35,805 yd³)

Soil Cost Estimate

- 27,375m³ needed at \$26/m³ = **\$711,698**
- *Soil costs were determined by an average of quoted prices from 4 suppliers in the Kelowna area for large volume sales.*

Trucking Cost Estimate

- Assume trucking cost of \$ 119.5/hr
 - Assume 18m³ (24yd³) truck & pup = 1520 truck loads for
 - Assume 1hr trip per load = 1520 hrs
 - Trucking cost of 1520 x 117.66/hr = **\$ 178,941**
- Trucking costs were determined by an average of quoted prices from 4 service providers in the Kelowna area.*

**Costs for spreading and grading were not included in this estimate*

The estimated remaining cost for remediation of this site for agricultural purposes is approximately **\$1,040,639**

2.2.4 Brownfield Concerns

Due to the historic uses of the subject lot and current uses on neighbouring lots, there is potential for contamination of soils and, or groundwater on the Subject Property. Site investigations with respect to contamination and land remediation are outside the scope of this assessment, but may be required prior to returning this property to agricultural or alternative uses. The cost of such investigations and land remediation has not been included in this assessment but should not be overlooked in consideration of future uses on the Subject Property. Such assessments are costly

as are any soil or groundwater remediation projects. Site investigation costs may be required and would therefore add to the cost of total remediation before the site may be used for future purposes (for example: industrial, residential, agricultural).

3 Soils Information

Soil conditions are a key factor in determining the overall agricultural capability and suitability of any given site. The soil conditions on the Subject Property are described in this section including; published government survey information and a description of the existing soil conditions, based on the lab data and observations made during the on-site inspection, conducted on October 24, 2012.

3.1 Government of British Columbia – Soil survey

Baseline soils information was obtained from the BC Ministry of Environment (MOE) Soils of the Okanagan and Similkameen Valleys, which comprises Report No. 52 of the BC Soil Survey (1986); and the accompanying mapping at 1:20,000 scale. The Subject Property is found on Mapsheet 82E.094 (Appendix A, Figure 5), which indicates that three soil complexes are found on the parcel. The general characteristics of these soils are summarized in Table 2, below:

Table 2: 982 Old Vernon Rd. Kelowna BC – Surrounding Land Use

Site Map Polygon	80% Westbank (WK) / 20% Summerland (SR)	100% Westbank (WK)	100% Glenmore (GL)
Location	The northwestern corner	Northeast / Central portion	Southern Portion of the property
Landform	Nearly level to strongly sloping stratified glaciolacustrine sediments / Nearly level to moderately sloping stratified glaciolacustrine sediments	Nearly level to strongly sloping stratified glaciolacustrine sediments	Nearly level to moderately sloping stratified glaciolacustrine sediments
Description	100 or more cm of clay, clay loam or silty clay / 100 cm or more of silt loam, silty clay loam or clay loam	100 or more cm of clay, clay loam or silty clay	100 cm or more of silt loam, silty clay loam or clay loam
Soil Profile Drainage	Moderately well / Well to Moderately Well	Moderately well	Well to moderately well
Stone Content	non-stoney	non-stoney	non-stoney
Agricultural Suitability	(WK) Tree fruits, Vineyards, Hay production, Pasture / (SK) Poorly suited for arable agriculture	(WK) Tree fruits, Vineyards, Hay production, Pasture	(GL) Pasture, Hay, Tree Fruits
Soils	Othic Grey Luvisol / Eluviated Dark Brown	Othic Grey Luvisol	Eluviated Dark Brown

Source: MoE, Technical Report 52, Soils of the Okanagan and Similkameen Valleys, which comprises Report No. 52 of the BC Soil Survey (1986)

3.2 Soils on Site Inspection – Methods

Three soil test pits (TP1 to TP3) were excavated to depths of 130 cm by a small tracked excavator on October 24, 2012. All test pits were located on sites that represented variations in topography, vegetation, land use and, or mapped soil characteristics. The soil test pits and site features were mapped and photographed (Appendix A, Figures 7 & 8; and Appendix B). The soil profiles were examined and described according to conventions from the *Canadian System of Soil Classification, Third Edition* (Soil Classification Working Group, 1998). It was not within the scope of this assessment to examine the soils for the purposes of classification at the Series level. A total of 8 representative soil samples were taken from all of the test pits and submitted for laboratory analysis of one or more of the following parameters: various soil nutrients, pH, electrical conductivity, available water storage capacity, and soil particle sizes/textures. (Appendix D).

Four soil units were identified on the Subject Property (as indicated by Roman numerals I - IV) through the detailed soils assessment at a mapping scale intensity of +/- 1:3,000 (Appendix A, Figure 9; and Table 3, below). Information obtained

during the site inspection was combined with the lab results to provide site-specific details that were used to fine-tune the soils data presented in Soil Report No. 52 (1986), which was based on mapping at 1:20,000. The soil units were primarily defined by soil physical and morphological properties. The profiles at each test pit within each unit shared a number of similarities including horizon properties, depths and sequences. Detailed test pit logs and photographs have been included with this report (Appendix B, Photos 3-9). The soil units as mapped for the Subject Properties at a scale of +/- 1:3,000 are described in Table 3, below

TABLE 3: 982 Old Vernon Rd., Kelowna, BC - Site Inspection : Soil Unit Summary

Soil Unit	Test Pits	Top Soil Depth (cm) / Colour	Soil Profile Texture ¹	Stone Content ²	Soil Profile Drainage	Topography	Land Use	Area (ha)	%Total Area	Notes
I	1	54 / Br	Sandy Loam / Clay / Heavy Clay	10% / 0% / 0%	Poorly Drained	Nearly Level Slope 1%	Former Mill Yard	0.59	15%	Mixed soil in top layer with wood waste
II	2	15 / DkBr	Clay / Clay / Heavy Clay	10% Gravel / 0% Gravel / 0% Gravel	Poorly Drained	Nearly Level Slope 1%	Former Mill Yard	2.02	50%	Mixed soil in top layer with wood waste, rooting depth 30cm
III	3	35 / Br	Loam / Heavy Clay / Heavy Clay	non-stoney	Poorly Drained	Nearly Level Slope 2%	Former Mill Yard	1.04	26%	Mixed soil in top layer with wood waste, rooting depth 30cm
VI	NA	NA	NA	NA	NA	Gentle slope 5%	House, shed, yard	0.36	9%	Residential portion of the lot

¹ based by laboratory testing

² visual observation

3.3 Comparison to BC Government Soil Survey & Mapping

With the exception of the extensively disturbed upper, admixed fill-soil horizon, the distribution of soil types as identified in the site inspection was generally consistent with the information presented in Soil Survey Report No. 52. In general, the minor differences in soil mapping have been attributed to the different scale intensities as they applied to the site. The BC Soil Survey is based on generalized mapping at a scale of 1:20,000, which is too broad to capture all the subtle variations in site conditions that were identified during the site inspection which was conducted at a detailed mapping scale intensity of +/- 1:3,000.

4 Climatic Capability for Agriculture

Climatic capability for agriculture is based on the limitations associated with the combined influence of the climate and soil moisture regimes as well as the thermal limitations for any given location. Climatic capability is a modifying component used in determining the overall agricultural capability and suitability of a given site. The climatic capability for agriculture of the Subject Property is described in this section; beginning with published government information, followed by that obtained during the on-site inspection.

4.1 Government of British Columbia – Climatic Capability

General reference information as well as baseline climatic data for the Kelowna area was found in Climatic Capability for Agriculture (BC Ministry of Environment, 1981), and Land Capability Classification for Agriculture in British Columbia, Manual 1 (BC Ministry of Agriculture and Food and Ministry of Environment, 1983).

It is important to note that the climatic capability ratings are based entirely on climatic conditions (primarily precipitation and temperature) at a given site. Soil characteristics and other site conditions are not considered in these ratings. The overall agricultural capability of the Subject Property is addressed in Section 5 of this report.

The MOE Technical Paper 4; Climate Capability Classification for Agriculture in British Columbia and accompanying mapping 82E/NW indicates the area of the Subject Property sits on a boundary between Class 5 (west portion) or 6 (east portion) improvable to Class 1bF / 1cG respectively, which indicates an estimated annual climatic moisture deficit (CMD) of 350 mm (BC MOE, 1981, Table 1). Class 5 land has restricted use for perennial forage and specially adapted crops. Class 6 land is considered non-arable but capable of producing native or uncultivated perennial forage crops. Soil moisture deficiency (A) is indicated as a primary limitation. Areas in Class 1aF have occurrences of minimum temperature near freezing that adversely affect plant growth during the growing season. Areas in Class 1cG have insufficient heat units during the growing season. See Appendix A Figure 7 for more detail.

4.2 Site Inspection

Site-specific climatic capability for agriculture was determined using data from TP1-TP3 which are located in, and representative of, different soil units throughout the Subject Property. Lab data obtained for the soil samples was used in conjunction with published regional data to calculate the available water storage capacity (AWSC) and soil moisture deficit (SMD) values for the upper 50 cm of the soil profiles. The results were used to determine site-specific climatic and soil capability ratings for agriculture on the Subject Property which have been summarized in Table 4, below. A description of agricultural/climatic capability classifications is found in Appendix C.

TABLE 4: 982 Old Vernon Rd., Kelowna BC - Soil Moisture Balance & Climatic Capability Ratings

	Soil Moisture Balance							Climate Capability Rating				
Site & Soil Horizon	Total Depth	Matrix Texture	Matrix AWSC ¹	Matrix Fraction	CF Adjusted AWSC	Interval AWSC	Climate H ₂ O Deficit ²	Soil H ₂ O Balance ³	Unimproved H ₂ O Subclass ⁴	Improved H ₂ O Subclass ⁴	Thermal Rating ²	Improved Overall Subclass
	cm	lab	mm/cm	lab	mm/cm	mm	mm	mm				
TP1/SU-I												
Fill*	50	SL	0.75	0.89	0.67	33.53						
Interval	50					33.53	350	-316.48	5A	3A	1aF	3A
TP2/SU-II												
F ill	15	C	2.22	0.89	1.98	29.77						
B	20	C	1.33	1.00	1.33	26.57						
C**	15	HC	1.37	1.00	1.37	20.53						
Interval	50					76.87	350	-273.13	5A	1	1aF	1
TP3/SU-III												
Fill	35	L	1.99	0.79	1.58	55.16						
B	15	HC	1.48	1.00	1.48	22.13						
Interval	50					77.30	350	-272.70	5A	1	1aF	1

* Used Ap data for TP2 as top horizon was similar in texture and coarse fragment content

** Used Ap data for TP1 as top horizon was similar in texture and coarse fragment content

¹ From Lab Data

² Technical Paper 4, 1981, MoE Climatic Capability Classification for Agriculture in British Columbia

³ (Interval AWSC) - (Climate H₂O Deficit) = Deficit (negative) or Surplus (positive)

⁴ Based on - MoE Manual 1 (BC Ministry of Environment, 1983)

4.3 Comparison of BC Government and On-Site Inspection Ratings

In general the site inspection finding showed that the climatic capability for this location corresponds with the provincial climatic capability mapping. Approximately 76% of the Subject Property was rated at Class 5 improvable to Class 1. Approximately 15% of the Subject Property was rated at Class 5 improvable to Class 3. The remaining 9% of the Subject Property was not assessed as it was deemed unavailable for agricultural use. The differences between the site inspection findings and provincial mapping are in part due to the different scale intensities as they applied to the Subject Property. The MOE ratings were based on mapping at a scales of 1:100,000, which are not intended to account for all the subtle variations in site-specific conditions (eg. soil texture, coarse fragment content, topography, slope angle and aspect) that were identified during the on-site inspection, at a detailed mapping scale intensity of +/- 1:3,000.

Please see Section 5.3 for a comparison between the overall agricultural capability mapping by MOE (including climatic capability) and the capability as determined by this assessment.

5 Agricultural Capability

Agricultural capability ratings are site-specific and based primarily on the influence of soils and climate, as modified by topography for any given location. The Canada Land Inventory (CLI) rating system uses a variety of measurable parameters (some of which are listed below) to provide objective classifications of agricultural capability:

- Slope angle and complexity;
- Depth to bedrock;
- Soil moisture deficits;
- Excess soil moisture;
- Coarse fragment content (stoniness);
- Soil texture;
- Depth to groundwater;
- Soil fertility; and
- Soil salinity

This interpretive system groups soils into seven classes according to potentials and limitations for agriculture (See Appendix C for capability class and limitation descriptions). Lands in Classes 1 to 4 inclusive are considered capable of sustained production of common cultivated field crops. Class 5 lands are capable of use only for producing perennial forage crops or specially adapted crops. Class 6 lands are capable of only providing sustained natural grazing for domestic livestock. Class 7 lands are incapable of use for either arable culture or grazing. (BC Ministry of Agriculture and Food, and Ministry of Environment, April 1983).

In most cases, both "unimproved" and "improved" agricultural capability ratings are determined for the area that is under consideration. The unimproved rating reflects the capability of the property in its natural or current state. The improved rating is theoretical and represents the anticipated agricultural capability of the property after improvements (eg. irrigation, enhanced drainage, soil amendments, fill placement, stone-picking, and/or subsoil decompaction) are made to mitigate the limitations. Some limitations, such as shallow bedrock, slope complexity and slope angle, are not considered to be improvable under "typical farming practices".

5.1 Government of British Columbia – Agricultural Capability

General reference information for agricultural capability was provided by Land Capability Classification for Agriculture in British Columbia, Manual 1 (BC Ministry of Agriculture and Food and Ministry of Environment, 1983; Appendix C). Site-specific agricultural capability mapping for the Subject Property was found on Mapsheet 82E.094 @1:20,000 (BC Ministry of Environment, 1987). (Appendix A, Figure 6).

The MOE agricultural capability polygons corresponded directly to the soil polygons mapped in Soil Survey Report No. 52, and are summarized in Table 5, below:

TABLE 5: 982 Old Vernon Rd., Kelowna BC- MOE Agricultural Capability Mapping @ 20,000

Location	Agricultural Capability Rating	
	Unimproved	Improved
Northwestern Area	8:8AD 2:6WN	8:3D 2:4WD
Northeastern and Central Area	4AD	3D
Southern Area	3AD	7:3D 3*3D

A - Soil Moisture Deficit

D - Soil Structure

N - Salinity

W - Excess Water

Soils on Site Inspection

The overall agricultural capability ratings for the Subject Property were mapped and then compared to the soil unit polygons as defined by the site inspection (Section 3.2, above). In this case, the boundaries for the agricultural capability (AC) Units as determined by the field investigation (indicated by numbers 1-3) do not entirely correspond to those mapped for the soil units (Appendix A, Figures 9 and 10). AC unit 1 corresponds with SU 1. AC unit 2 is comprised of SU 2 and 3. Information obtained from the field inspection was combined with published soils, topography and climate data (as described in Sections 3.0 and 4.0) then applied to the criteria presented in MOE Manual 1 to determine the site-specific agricultural capability ratings at a mapping scale intensity of +/-1:3,000. The agricultural capability ratings for the Subject Property, based on the site inspection are summarized in Table 6, below:

TABLE 6: 982 Old Vernon Rd., Kelowna BC- Site Inspection: Agricultural Capability Ratings

Soil Unit	Ag Capability Unit	TP	Unimproved Ag Capability ²	Improved Overall Ag Capability ²	Area (ha)	% Total Area ³
I	1	1	5AW	3WAD	0.59	15%
II	2	2	5AW	3WD	2.02	50%
III		3	5AW	3WD	1.04	26%
IV	3	NA	NA	NA	0.36	9%
Total					4.01	100%

¹ Ratings based on lab results & field investigation. See Table 7 for class descriptions

² See appendix C for Capability descriptions

³ Estimates based on lab results, field investigations and aerial photography

Excess water during the wet months, and soil moisture deficits in the growing season were identified as the most extensive and severe limitations to agricultural capability on the Subject Property. Undesirable soil structure was considered to be an extensive, but less severe limitation.

AC Unit 1 (including Soil Unit I) accounts for +/- 15% (0.59 ha) of land on the Subject Property. This area was rated at Class 5 (unimproved) due to a soil

moisture deficit in the summer, and excess water conditions in the spring, fall and winter. This area is improvable to Class 3 with the addition of irrigation in the warm months and water control such as ditching and/or artificial drainage for the spring, fall and winter months. Irrigation is expected to raise the soil moisture deficit ("A") limitations to Class 1 throughout this agricultural capability unit. A root restricting layer and low perviousness were consistent across the property and represent a soil structure limitation of Class 3 that may be improvable by removal of poor quality admixed fill, decompaction of the underlying clay layer and replacement of top soil to a depth of at least 0.75m.

AC Unit 2 (including Soil Units II & III) accounts for +/-76% (3.06 ha) of land on the property. This area was rated at Class 5 (unimproved) due to a soil moisture deficit in the summer, and excess water conditions in the spring, fall and winter. This area is improvable to Class 3 with the addition of irrigation in the warm months and water control such as ditching and/or artificial drainage for the spring, fall and winter months. Because of the coarse texture of the soils in this agricultural capability unit, irrigation is only expected to raise the "A" limitation to Class 3

The remaining +/-9% (0.36 ha) of the Site, which has been mapped as AC Unit 3, occupies land in the southern area. This area has been rated at Class "AN" for anthropogenic alterations and is not considered to be available for agriculture due to the existence of a home, yard, driveway and outbuildings.

5.2 Comparison of BC Government and On-Site Inspection Ratings

The unimproved and improved agricultural capability ratings applied to the Subject Properties based on the on-site inspection were somewhat consistent with the ratings ascribed by the MOE mapping, as summarized below (See also Tables 5 and 6; and Appendix A, Figure 9).

The on-site agricultural capability ratings revealed a greater extent of excess water limitation ("W") on the property although it was not as severe as depicted by the MOE mapping. As well, the published mapping showed that all areas of the Subject Property had an unimproved rating of 3A to 4A. By contrast, the on-site assessment identified persistent soil moisture deficiencies with an unimproved rating of 5A across the property. The improved ratings increased to Class 1 (northwest corner) to 3A (south and central area) with irrigation.

In summary, the on-site inspection agricultural capability ratings were somewhat consistent with both MOE climatic and overall agricultural capability ratings. There was a greater variability in the unimproved ratings mapped by the MoE, while the on-site inspection results were more homogeneous ascribing the same unimproved and improved ratings to 76% of the Subject Property. The homogeneity noted is likely due to the significant modification that has occurred to the surface soils across the site.

5.3 Feasibility of Improvements

All improvements provided are theoretical in nature and based on best management practices as outlined the MOE Manual 1. These improvements are based on an assumption of land that is generally free of waste and contaminants. This assumed condition is not represented on the Subject Property.

The Subject Property has undergone historic improvements (see section 2.2.2). However, significant remaining rehabilitation is needed for the property to be suitable for agriculture (see section 2.2.3). The cost of the remaining improvements and rehabilitation that are necessary to prepare this property for agricultural use are not likely to be feasible. Furthermore, the required improvements (ie. Removal of wood waste material and replacement of the topsoil layer across 91% of the Subject Property) greatly exceed what would be considered "typical farm improvement practices", both in terms of the scope and costs for this work. The recovery of the improvement expenses by an agricultural production operation would be unlikely and is expected to be economically prohibitive.

The proposed future improvements based on MoE Manual 1 BMPs include supplemental moisture (irrigation) during the dry months and water control/drainage enhancements for excess moisture (ditching and/or artificial drainage). The results of this assessment suggest that these improvements would be feasible for AC Unit 1 and 2 which accounts for +/-91% (3.65 ha) of the Subject Property. The agricultural capability rating on AC 1 which accounts for +/-15% (0.59 ha) of the Subject Property is expected to improve from Class 5AW to Class 3WAD. The agricultural capability rating on AC 2 which accounts for +/-76% (3.06 ha) of the Subject Property is expected to improve from Class 5AW to Class 3WD. Improvements are not considered to be feasible for the remaining +/-6% (0.6 ha) of the Subject Property. This area is in AC Unit 3 which is unavailable due to existing residential structure and out buildings.

6 Agricultural Suitability

Agricultural suitability is related to agricultural capability, but involves the interpretation of a wider variety of factors as they relate to the potential for specific uses on a given property. While agricultural capability is based on physical features and measurable parameters, agricultural suitability assessments include a range of site conditions and external influences. The following factors were considered in assessing the agricultural suitability of the Subject Property:

- Feasibility of improvements;
- Availability of additional good quality topsoil;
- Overall size of the Subject Property;
- Location and context of the Subject Property (proximity to urban/suburban/rural land use and zoning);
- Land use on subject property – historical, current and future plans;
- Land use in surrounding area – historical, current and future plans;
- Diversifications, innovations and improvements to date;
- MoE agricultural capability ratings (at 1:20,000 mapping scale); and
- Agricultural capability ratings as determined by this assessment (at +/- 1:3,000 mapping scale).

The suitability of the Subject Property for various agricultural purposes has been evaluated In terms of the factors listed above and has been summarized in Table 7, below:

TABLE 7: 982 Old Vernon Rd., Kelowna BC – Site Inspection: Agricultural Suitability

AC Unit	Area (ha)	% Total Area	Ag Capability Unimproved (Improved)	Suitability for Agriculture Activities
Soil Bound Agriculture				
1&2	3.65	91%	Class 5 (Class 3)	These Agricultural Capability Units represent all of the property outside of the home site. The topsoil layer on this portion of the property has been completely admixed by the mill practices and would require significant remediation to be used for soil bound agriculture (section 2.2.3 for more detail). If rehabilitation was feasible, this area would potentially be suitable for perennial forage and select crops. The nearby Kelowna Airport, Environment Canada weather station data indicates that this area of Kelowna is a frost pocket which has on average 34 more days per year with minimum temperatures below 0C, when compared with East Kelowna and Kelowna weather stations. The risk of crop damage or failure may be increased due to the excess water and fewer frost free days. However, it would not be feasible to rehabilitate this area for soil bound agriculture due to the prohibitive costs of such improvements.
3	0.36	9%	NA	NA
Intensive Soil Bound Livestock - Operations which depend, in whole, or in part, on growing their own feed for livestock production (eg. Beef cattle (cow, calf or feeder), dairy cows, sheep, goats, and other livestock at a commercial scale)				
1&2	3.65	91%	Class 5 (Class 3)	These Agricultural Capability Units represent all of the property outside of the home site. The topsoil layer on this portion of the property has been completely admixed by the mill practices and would require significant remediation to be used for the production of livestock feed. If rehabilitation was feasible, this area would potentially be suitable for perennial forage. However, it would not be feasible to rehabilitate this area for livestock feed/production due to the prohibitive costs of such improvements.
3	0.36	9%	NA	NA
Intensive Non-Soil Bound Livestock - Uses which do not rely on growing crops in soil to support the enterprise (eg. Beef feedlots, hog production and poultry ie. Eggs and meat birds)				
1&2	3.65	91%	Class 5 (Class 3)	The property is located in a rural/residential area and near to a residential subdivision. Conflicts regarding the odours, noise and traffic associated with an intensive feedlot operation may be an issue with neighbouring rural residential property owners. For access reasons and potential conflict with neighbouring property owners this site is not suitable for intensive non-soil bound livestock. However, it would not be feasible to rehabilitate this area for non-soil bound livestock due to the prohibitive costs of such improvements.
3	0.36	9%	NA	NA
Intensive Non-soil bound Horticultural Agriculture (eg. green houses and container nursery)				
1&2	3.65	91%	Class 5 (Class 3)	The site is largely level. After remediation this property could be made suitable for Non-soil bound Horticultural Agriculture operation. However, it would not be feasible to rehabilitate this area for non-soil bound horticulture due to the prohibitive costs of such improvements.
3	0.36	9%	NA	NA

7 Impact Analysis

The potential impacts associated with the industrial land use on the Subject Property on the local and regional agricultural context have been summarized in Table 8, below. One of the advantages of having the Subject Property rehabilitated for industrial use would be the opportunity to install buffers between the site and surrounding properties that are being used for agricultural activities.

TABLE 8: 982 Old Vernon Rd., Kelowna BC – Potential Impacts of Continuing Industrial Land Use

Area of Concern	Anticipated Impacts from Proposed Land Use	Comments
Industrial Land Use of Subject Property on Surrounding Lands	The Subject Property was the site of a saw mill operation for over 50 years (35+ years since inclusion in the ALR). Further industrial land use would require extensive rehabilitation and improvements to the property. Such improvements can be expected to have a positive impact on the surrounding properties.	The Subject Property is located in a rural/residential area and is generally surrounded by agricultural properties with apparent light commercial/industrial uses on the neighbouring property to the east. There is a nearby small lot residential subdivision.
Regional and Local Agricultural Capacity	The Subject Property is not contributing to regional or local Agricultural Capacity. The property has not been used for agriculture since the 1950's. A non agricultural use on this property will not negatively impact the local Agricultural Capacity.	The site has not been used for agricultural purposes for over 50 years. There will be no impacts on local capacity if non-agricultural uses are permitted at this site.
Surrounding Agricultural Operations	Nearby agricultural operations include intensive soil bound agriculture to the north and south and hay fields to the west. A remediated industrial site including perimeter buffers would be an improvement for all neighbouring properties.	The property operated as an industrial site for about 50 years (35+ years since inclusion in the ALR) at this location. Clean up and redevelopment for further industrial use will require removal of unsightly and potentially deleterious wood waste and allow for the inclusion of buffers to be added to the site to ALC specifications. The buffering measures to be implemented will mitigate the negative impacts of future land uses on the neighbouring agricultural operations and properties.
Precedent of Industrial Land Use for Triggering Future Applications	The Subject Property shares commonalities with the neighbouring site to the east, as both were part of the original sawmill operation. The Subject Property was included in the ALR as an operating mill and operated for another 30 years at this location. Permitted non-farm land-use on the subject property may serve as a precedent for application on the property directly adjacent to the east (the remainder of the mill site). Beyond those sites there is no clear, likely precedent as all remaining surrounding lands are apparently used primarily for agriculture, or are not in the ALR	

8 Summary and Conclusions

8.1 Subject Property

The Subject Property has been used as a saw mill for over 50 years (35+ years since inclusion in the ALR). There has been no agricultural land use on the Subject Property in that time. Despite significant and costly rehabilitation efforts to the property, it remains in a state that is not suitable for agriculture. The estimated costs to complete the rehabilitation and make the Subject Property suitable for agricultural production are economically unfeasible when compared to the expected returns from an agricultural production business. In addition, such rehabilitation would fall well beyond the scope and cost of typical farm improvements.

Land use in the vicinity of the Subject Property is primarily rural / residential with agriculture being actively practised on the adjacent properties to the north, south and west of the property. The remainder of the original saw mill operation is located on the property directly adjacent to the east and is apparently being used for industrial activities, with no apparent agricultural use. While the majority of the property directly adjacent to the west is being used for hay, it is also being used to park heavy equipment. Across Old Vernon Rd. to the south is an agricultural property, approximately half of which is used to produce specialty market items (eg. Sauces, jams, pickled vegetables). The other half is not currently being used for any agricultural or industrial activities.

8.2 Soils and Agricultural Capability

This assessment rated the soil moisture deficiencies at Class 5A (unimproved) for the entire Subject Property. The improved ratings for soil moisture on +/-91% of the Subject Property, based on the addition of irrigation, ranged from Class 3A to 1. The remaining 9% of the lot is unavailable for agricultural use. Variations in the soil moisture deficiency across the Subject Property were related to site-specific soil conditions (eg. soil texture) and anticipated responses to supplemental moisture;

This assessment rated undesirable soil structure at Class 3D for +/-91% of the Subject Property and was found to be a minor limitation on throughout the site. The remaining 9% of the lot is unavailable for agricultural use;

This assessment found that excess water was a limitation with a 4W (unimproved) rating on 91% of the Subject Property. The improved ratings for this portion of the property are 3W, based on ditching and/or installing artificial drainage to control the water in wetter months. The remaining 9% of the lot is unavailable for agricultural use;

The proposed improvements on the Subject Property included supplemental moisture (irrigation) during the dry months, as well as enhanced surface and soil profile drainage for the wet months. The results of this assessment suggest that these

improvements would be feasible for +/-91% (3.65 ha) of the Subject Property, where the agricultural capability ratings are expected to improve from Class 5 to Class 3;

The proposed improvements are not considered to be feasible for the remaining +/-9% (0.36 ha) of the Subject Property. This area is unavailable for agriculture due to existing residential structures and out buildings;

Under the current circumstances, and considering the cost and scope of required improvements for the Subject Property, no suitable agricultural uses have been identified for the Subject Property. The investments to date, combined with the high cost of removing wood waste and completing further assessments preclude the possibility of non-soil bound uses such as horticultural agricultural or an intensive livestock operation.

8.3 Proposed Project

The landowners are exploring a variety of potential future land uses, including the possibility of returning to an industrial use on the Subject Property. A specific activity has not been designated at this time. However, due to the significant scope and onerous costs of site rehabilitation still required agricultural production is not considered to be a feasible option.

8.4 Conclusion

The Subject Property is located in a rural/residential area of the City of Kelowna; it was operated historically as a saw mill until 2005, and has little to no current use on 91% of the property. While significant site rehabilitation and improvements could theoretically make the Subject Property suitable for agricultural production; the scope and costs of this work are well beyond what is generally considered to be typical farm improvement practices. Therefore, the rehabilitation of Subject Property for any agricultural purposes is not considered to be economically or practically feasible.

Generally speaking, inclusion of land that is improvable to class 3 into the ALR would be considered good practice; however, due to the historic industrial use of the Subject Property, rehabilitation of the Subject Property for agricultural use at the time of creation of the ALR (1974-1976) may already have well exceeded the potential returns from an agricultural operation. These conditions have been compounded to present day further limiting the land use options available to the current Landowners.

9 References

BC Ministry of Agriculture and Food and Ministry of Environment, April 1983. *Land Capability for Agriculture in British Columbia*. MOE Manual 1. Surveys and Resource Mapping Branch and Soils Branch: Kelowna, BC

BC Ministry of Environment, 1981. *Climatic Capability Classification for Agriculture in British Columbia*. Climatology Unit - Air Studies Branch; Victoria, BC

City of Kelowna, 2003, *Consolidated Zoning Bylaw No. 8000*, Kelowna BC
<http://www.kelowna.ca/CM/page2561.aspx>

BC Ministry of Environment, 1985 *Soils of the Okanagan and Similkameen Valleys*, MoE, Victoria BC

BC Ministry of Environment, 1975. *Land Capability for Agriculture of the Okanagan and Similkameen Valleys*, Mapsheet 82L.094t 1:20,000. Thematic Mapping Unit, Surveys and Resource Mapping Branch: Victoria, British Columbia

City of Kelowna, *City of Kelowna Map Viewer (online)*,
http://www.kelowna.ca/website/ikelowna_map_viewer/viewer.cfm , Kelowna, BC

10 Limitations

I, Matthew Davidson certify that I supervised and carried out the work as described in this report. The report is based upon and limited by circumstances and conditions referred to throughout the report and upon information available at the time of the site investigation. I have exercised reasonable skill, care and diligence to assess the information acquired during the preparation of this report. I believe this information is accurate but cannot guarantee or warrant its accuracy or completeness. Information provided by others was believed to be accurate but cannot be guaranteed.

The information presented in this report was acquired, compiled and interpreted exclusively for the purposes described in this report. I do not accept any responsibility for the use of this report, in whole or in part, for any purpose other than intended or to any third party for any use whatsoever. This report is valid for one year only after the date of production.

Respectfully Submitted,



Matthew Davidson, P.Ag.
Senior Environmental Scientist
Valhalla Environmental Consulting Inc.

REPORT TO COUNCIL



Date: October 30, 2017

RIM No. 1210-21

To: City Manager

From: Community Planning Department (MS)

Application: A17-0003 **Owners:** Jeetender S. Kandola
Manraj K. Kandola

Address: 982 Old Vernon Rd **Applicants:** Jeetender S. Kandola
Manraj K. Kandola

Subject: ALC Application for a Non-Farm Use in the ALR (Storage and Composting)

Existing OCP Designation: REP – Resource Protection Area

Existing Zone: A1 – Agriculture 1

1.0 Recommendation

THAT Agricultural Land Reserve Appeal No. A17-0003 for Lot 3 Section 1 TWP 23 ODYD Plan 546, located at 982 Old Vernon Road, Kelowna for a non-farm use of agricultural land in the Agricultural Land Reserve pursuant to Section 20(3) of the *Agricultural Land Commission Act*, be supported by Council;

AND THAT the Council directs Staff to forward the subject application to the Agricultural Land Commission for consideration.

2.0 Purpose

To support an application to the Agricultural Land Commission for a Non-Farm Use to operate a composting and storage facility for boats, recreational vehicles and a tree service company, not to exceed a combined 7700m square metres on the subject property, under the conditions of a Temporary Use Permit.

3.0 Community Planning

Staff supports the application as proposed. The proposal is part of an overall plan to reduce existing wood waste, which currently prohibits the use of the site for agriculture. The composting operation will grind and screen the wood waste, and mix with additional green yard waste, to create compost for market. The tree service and the Recreational Vehicle (RV) and boat storage, will not have surfacing or site improvements, but will provide income that can be used to finance equipment to assist the wood composting operation.

Staff have worked with the applicants to establish proposal that is consistent with the OCP Policy for Non-Farm Uses¹, which states:

Support non-farm use applications on agricultural lands only where approved by the ALC and where the proposed uses:

- *are consistent with the Zoning Bylaw and OCP;*
- *provide significant benefits to local agriculture;*
- *can be accommodated using existing municipal infrastructure;*
- *minimize impacts on productive agricultural lands;*
- *will not preclude future use of the lands for agriculture; and*
- *will not harm adjacent farm operations.*

Staff notes that the proposed non-farm uses will not require additional services, surfacing or permanent structures, such that the property may return to agriculture. The proposed uses are limited to 7700m² (1.9 acres), including 1000m³ within the Farm Residential Footprint. It is located at the south portion of the property, and as such not likely to impact adjacent farming operations. In addition, the requirement of a Temporary Use Permit (TUP) would limit the time permitted, for a maximum of three years plus a possible three year extension. Should the proposal be approved the ALC, and further should Council approve a TUP, the use would then be consistent with Official Community Plan policy.

The property has a history of log storage and wood recycling, previously authorized by the Agricultural Land Commission (ALC) through two non-farm use approvals. Through the 1980's to early 2000's, the wood storage and recycling supported the Russo Sawmill on the property to the east, 1040 Old Vernon Road. The applicants purchased 982 Old Vernon Road in 2005 with approximately 122,330m³ wood waste on site. Since this time, they have undergone a number of efforts to reduce the wood left from the previous sawmill.

In 2006 a controlled burner was set up to eliminate wood waste. In 2007, the applicants began to establish wood rows as a way to initiate more rapid composting. As a result of this effort, numerous fires erupted through spontaneous combustion with the introduction of oxygen into the lower levels. From 2009 to 2011, the applicants hired a contractor to haul the wood to a cogeneration plant in Armstrong. Unfortunately, this effort was discontinued due to the low burning potential (BTU potential) of the old timber. In addition, the applicants have worked with a number of landscape companies through the years to screen, mulch and compost the wood waste, mixing it with green yard waste to create compost for market. This initiative, however, takes capital to purchase equipment, (e.g. a tub grinder), as most of the material remaining is of significant size.

4.0 Proposal

The applicant is requesting approval from the ALC to operate three separate non-farm uses on specific areas of the property, per the plan below. Specifically, they are:

1. Boat and RV Storage (3000m² maximum)
2. Tree Service Company – Vehicle and Equipment Storage (1700m² maximum)
3. Composting Operation – (3000m² maximum)

¹ City of Kelowna 2030 Official Community Plan: Agricultural Land Use Policies Chapter. P. 5-35.

The proposed locations of the non-farm uses are not to exceed a combined 7700m² (1.9 acres) maximum, as shown below. The terms of a Temporary Use Permit would include:

- Total Non-Farm Uses not to exceed 7700m² (1.9 acres) at the south of the property per Figure 1, below;
- Additional site improvements, including surfacing, servicing and structures to support the non-farm uses, are prohibited;
- Target minimum reductions in existing site wood waste per year is 385 cubic metres (500 yards); and
- The Temporary Use Permit will be for a maximum of three years, with a possible three year extension.

Figure 1. Proposed Maps of Non-Farm Uses

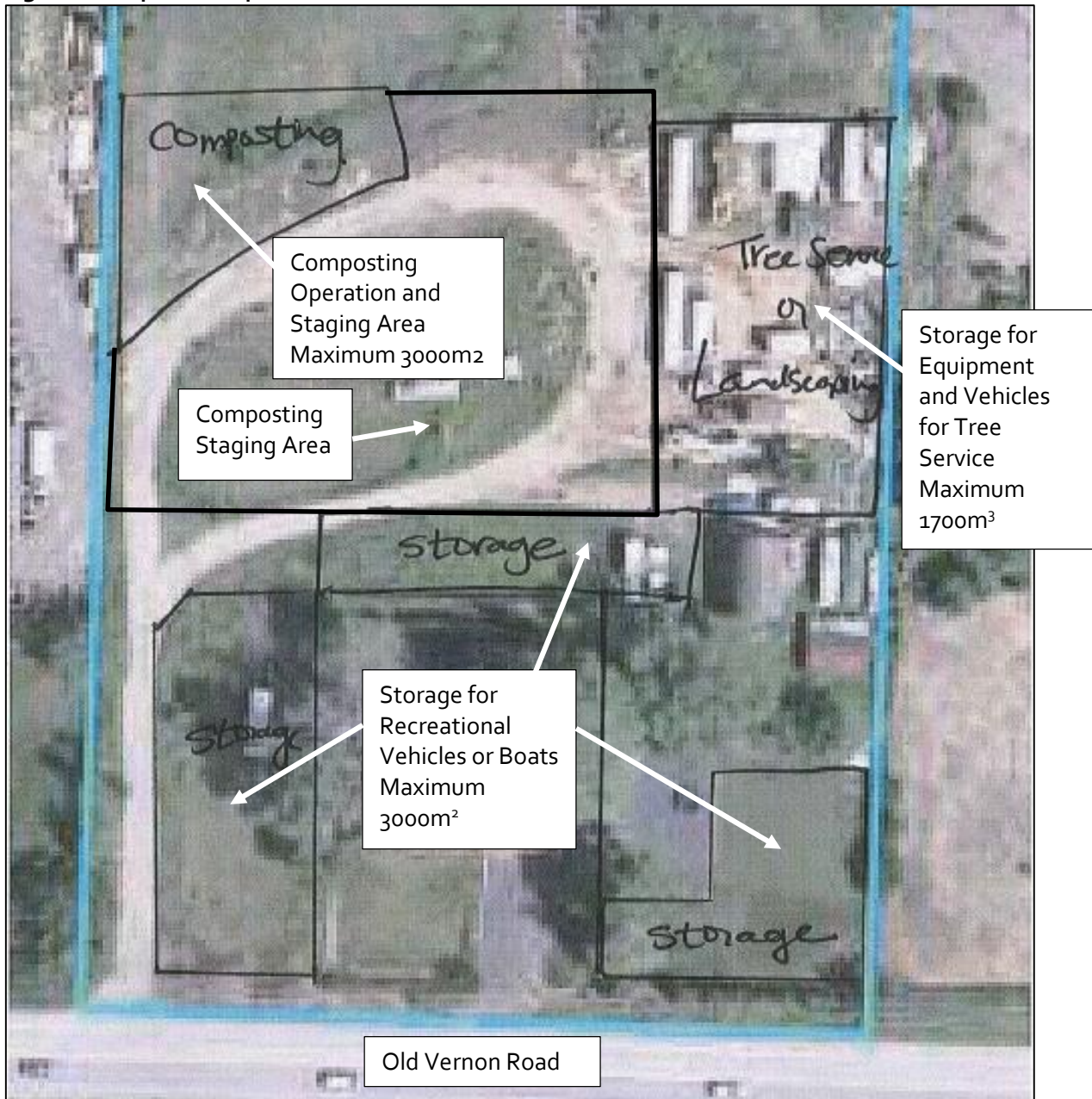
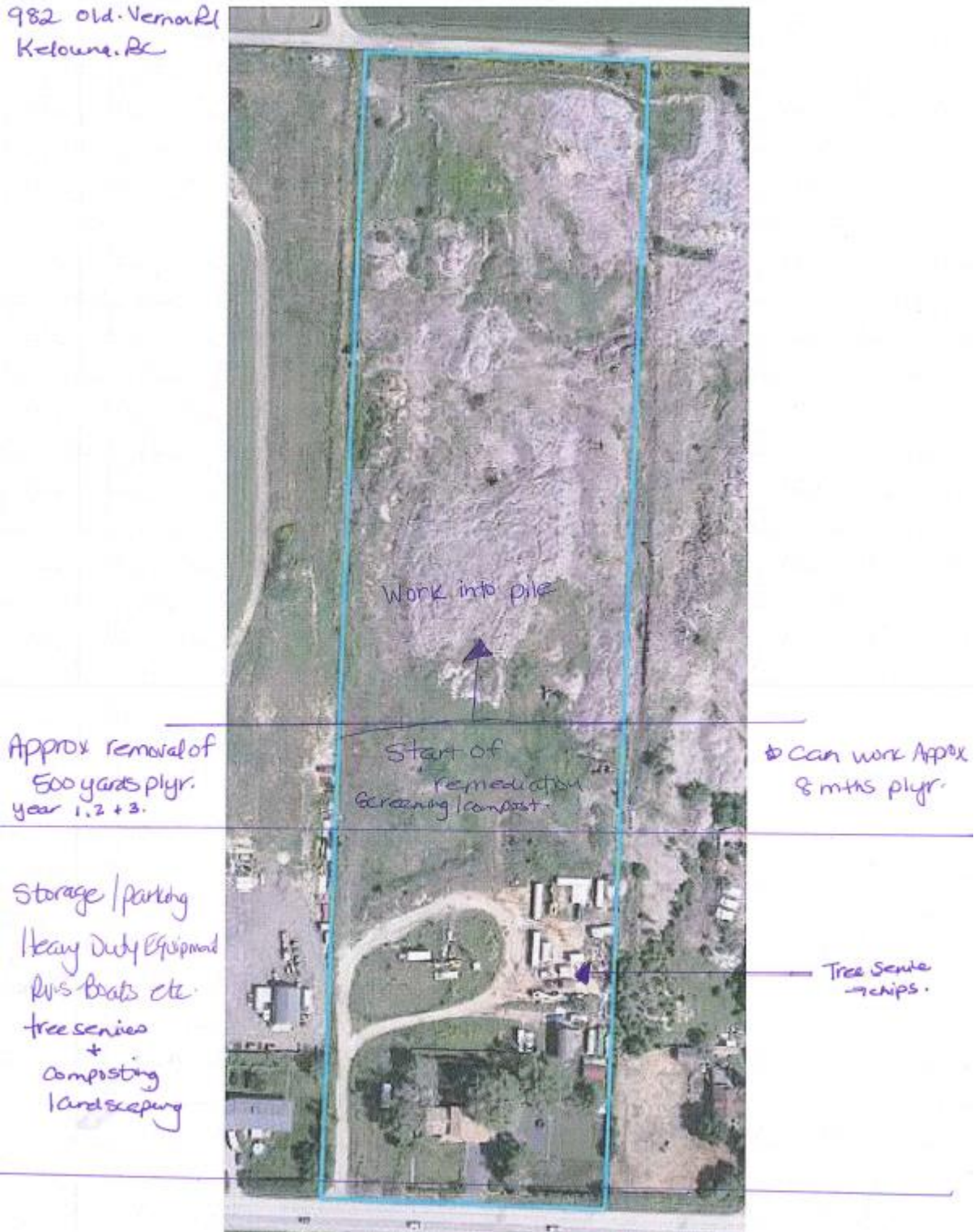


Figure 2. Proposed Maps of Non-Farm Uses (Large Detail)



4.1 Background

The property has a history of log storage and wood recycling. Through the 1980's to early 2000's, the wood storage and recycling supported the Russo Sawmill on the property to the east, 1040 Old Vernon Road. These non-farm uses were conditionally authorized by the Agricultural Land Commission (ALC) through two non-farm use approvals. The ALC resolutions that permitted the expansion of the log storage and wood recycling onto the subject property include:

- Resolution #993/85 permitted 1.7 ha of 982 Old Vernon Road to be used for ***the storage of logs, lumber and sawdust.***
- Resolution #437/2000 permitted the use of all of 982 and 1040 Old Vernon Road ***for sawmilling, wood waste recycling/composting and pallet recycling.*** This approval was subject to the conditions that Lot 1, 1124 Old Vernon Road would be reclaimed to agriculture, and that a fence be erected on the east, north and west property line.

The original Russo Sawmill was designated as a 'Clean Wood Drop Zone' by the City of Kelowna and the Regional Waste Reduction Office. The sawmill would take stumps, non-merchantable timber, and clean wood waste and recycle them into lumber, pallets, wood chips and mulch which was then sold. After the sale of the properties, the sawmill and its equipment was dismantled and no longer is present on site.

In 2014, an exclusion application was made to the ALC for 982 Old Vernon Road. Through Resolution #92/2014, the application was refused, with the following comments:

The Commission acknowledges the existing limitations of the subject property for soil-bound agriculture, but believes that there are still options for reclamation of the site to an agricultural standard. Even if the property is not fully reclaimed there are other non-soil based farm operations that would be possible on the subject property as was discussed by the local Agricultural Advisory Committee. Two possible examples for uses on the subject property are greenhouses and/or a pot nursery.

Conclusion:

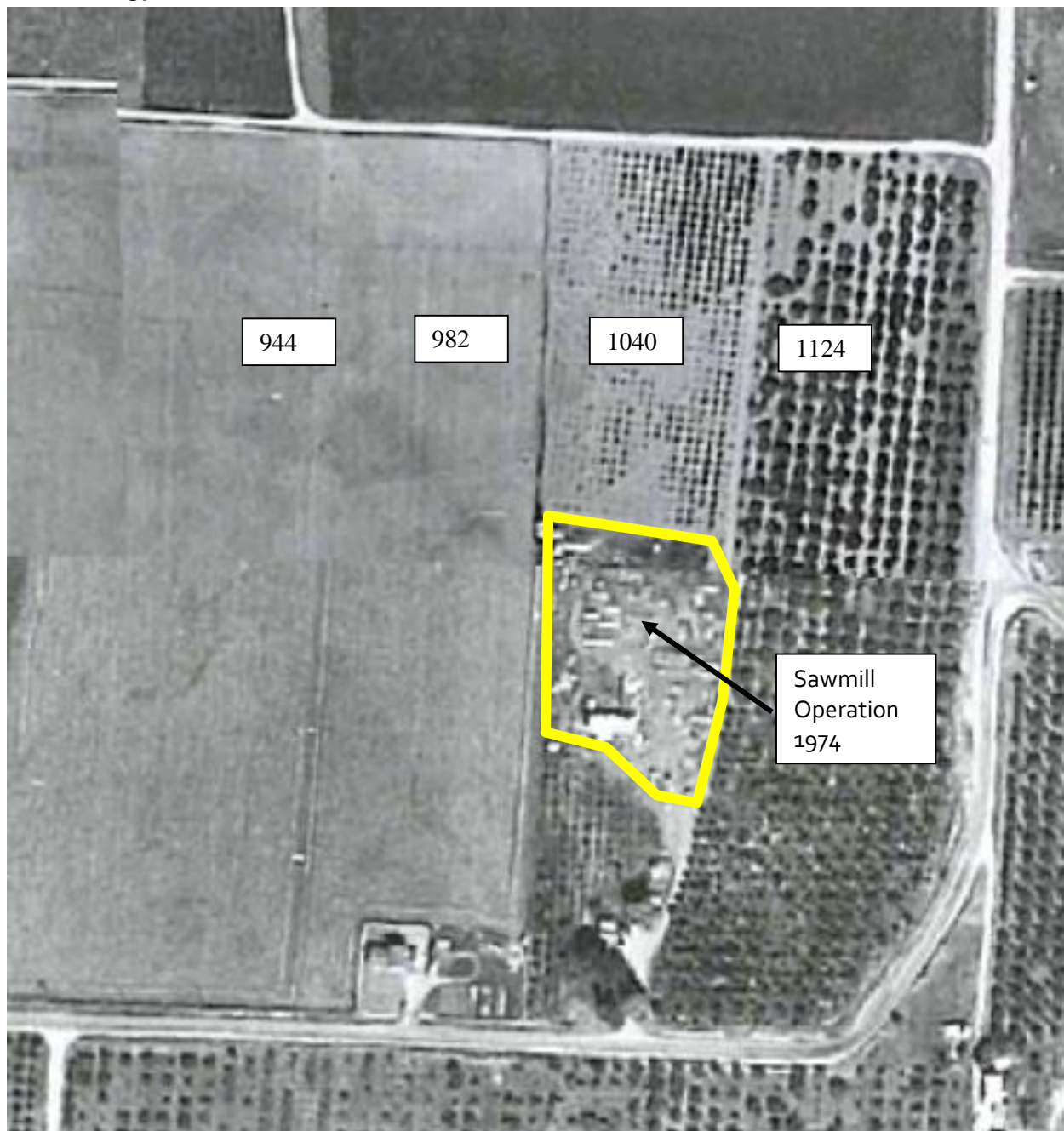
Despite the history of the subject property, there is still the ability for reclamation or at least improvement of the agricultural capability of the soils on the subject property. However, even without full reclamation, the property owners have other non-soil based agricultural options available to them.

Additional history of the property and the Russo Sawmill is included below.

Air Photo 1970

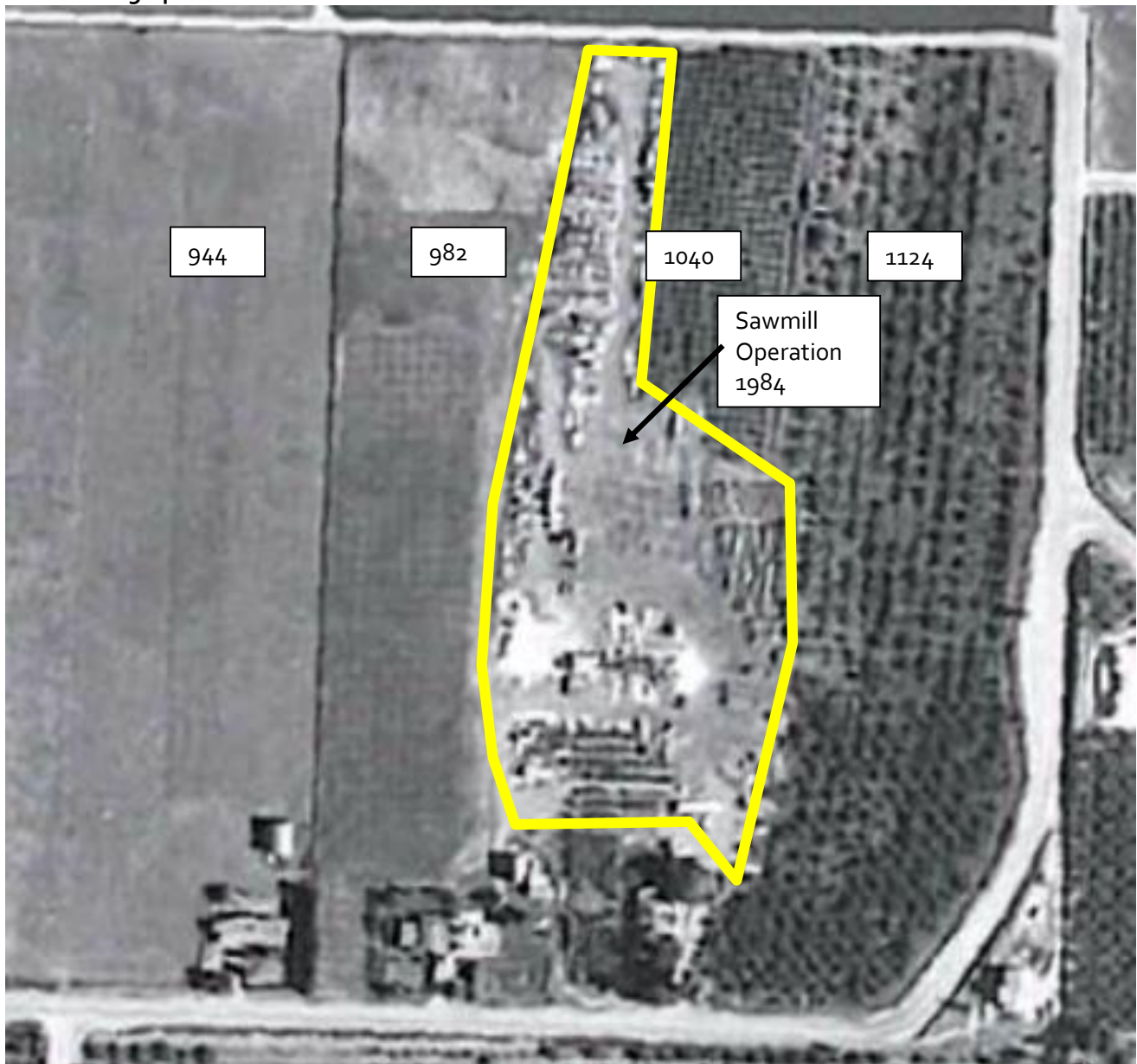


Air Photo 1976



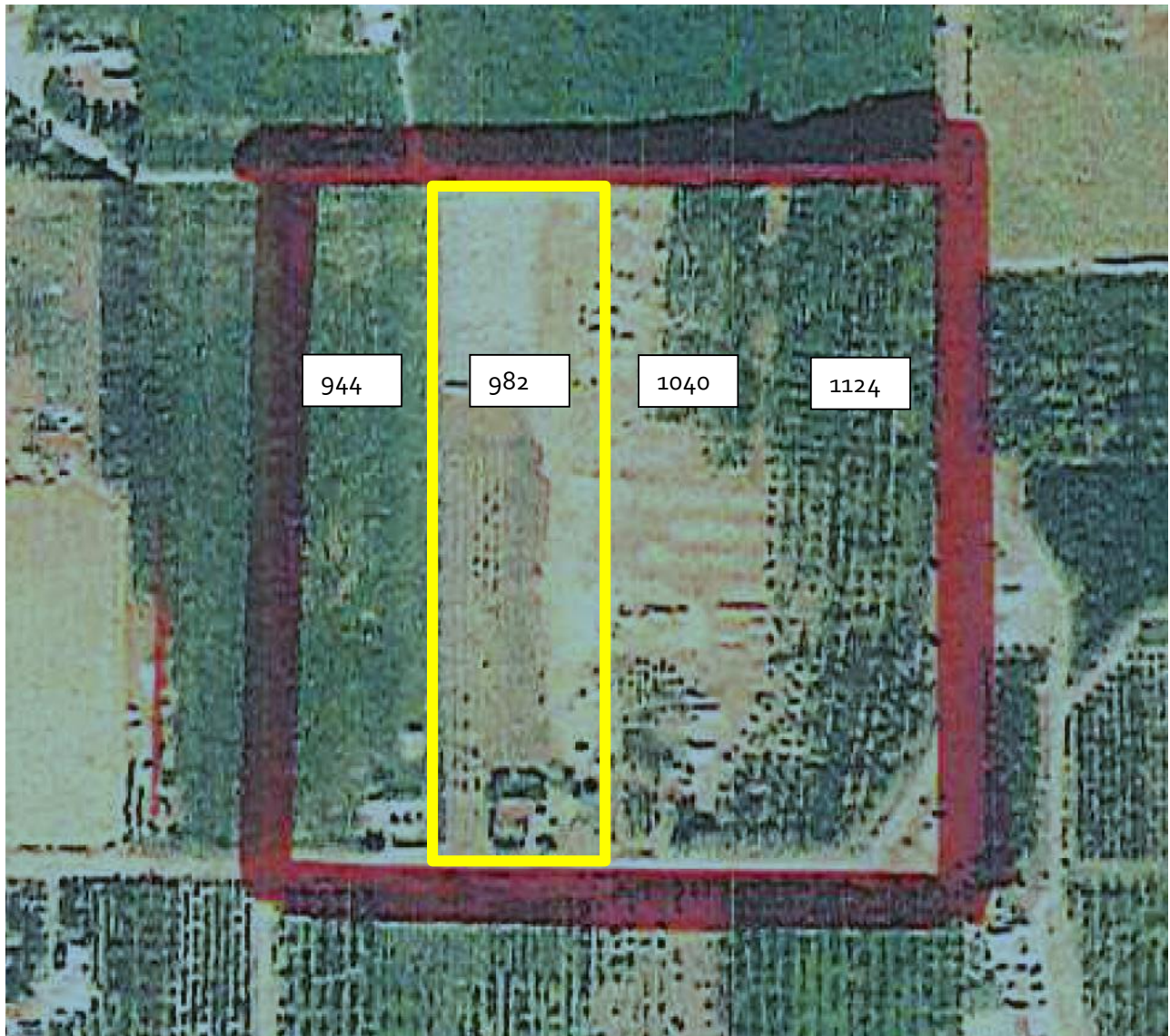
In 1976, the sawmill operation focused on the subject property (Lot 2) 1040 Old Vernon Road. This was shortly after the establishment of the ALR.

Air Photo 1984



In 1984, the storage of logs and lumber was starting to encroach on 982 Old Vernon Road.

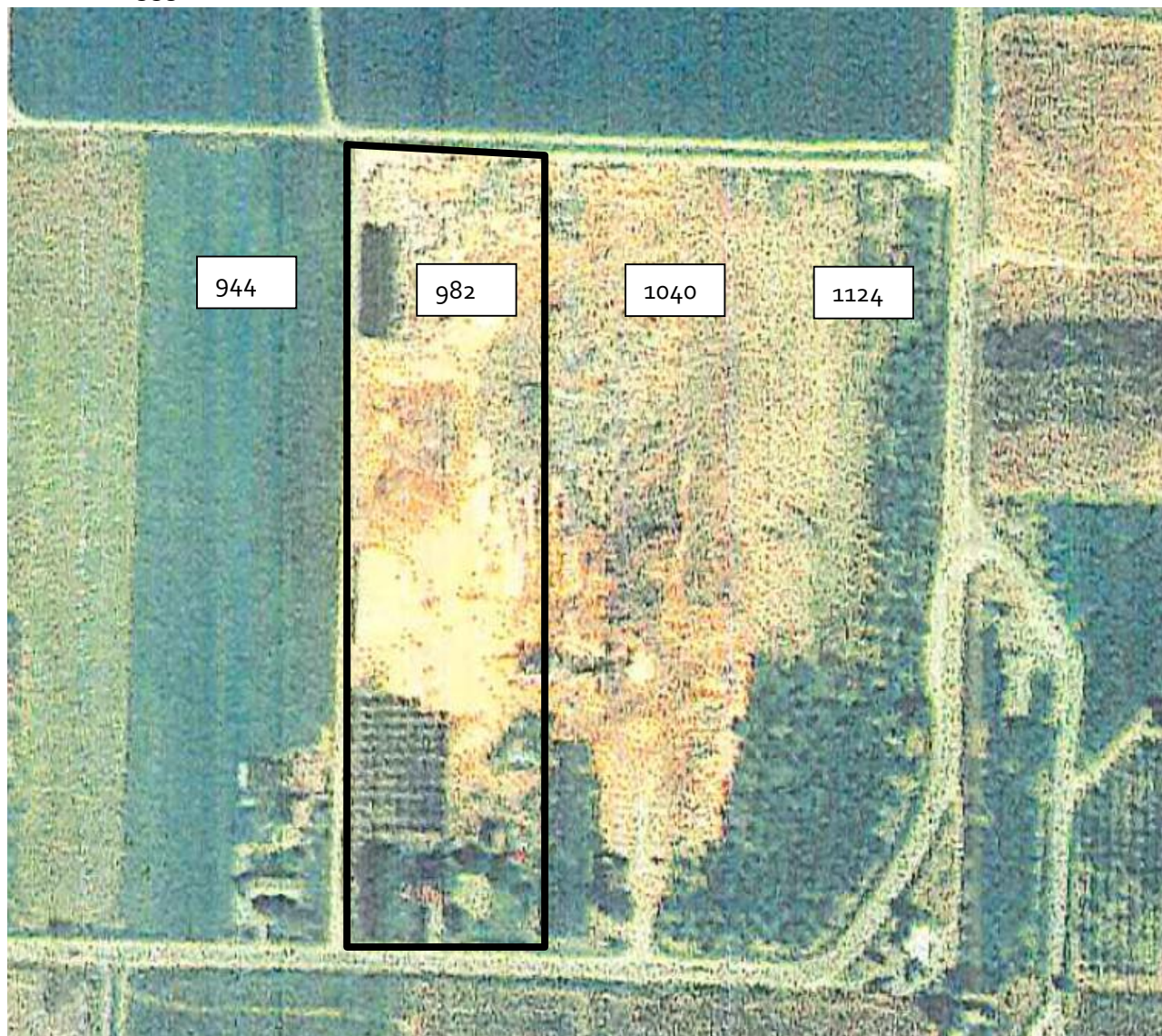
Air Photo 1985



By 1985, the sawmill operation had expanded beyond the subject property, over 1.7 ha in area on 982 Old Vernon Road (Lot 3). In response to complaints from a neighbour, the owner made an application to the ALC to expand the sawmill operation to 982 Old Vernon Road. Through ALC Resolution #993/85, authorization was granted, for a limited area of 1.7 ha, specifically for storage of logs, lumber and sawdust. This resolution was subject to the owners to avoiding placing gravel on the property, which was stunting the growth of the neighbours fruit trees and alfalfa, a complaint of the neighbour to the west.

Date	Action	Result / Direction
Nov. 13, 1985	ALC Resolution #993/85	Authorization of 1.7 ha of Lot 3 for storage of logs, lumber and sawdust, subject to agreement of terms with neighbour.
March 5, 1985	ALC Letter of Clarification for Lot 2	Sawmill use authorized on Lot 2 as long as it the remainder of lot continued its use of agriculture. Any change to this would require ALC review.

Air Photo 1999

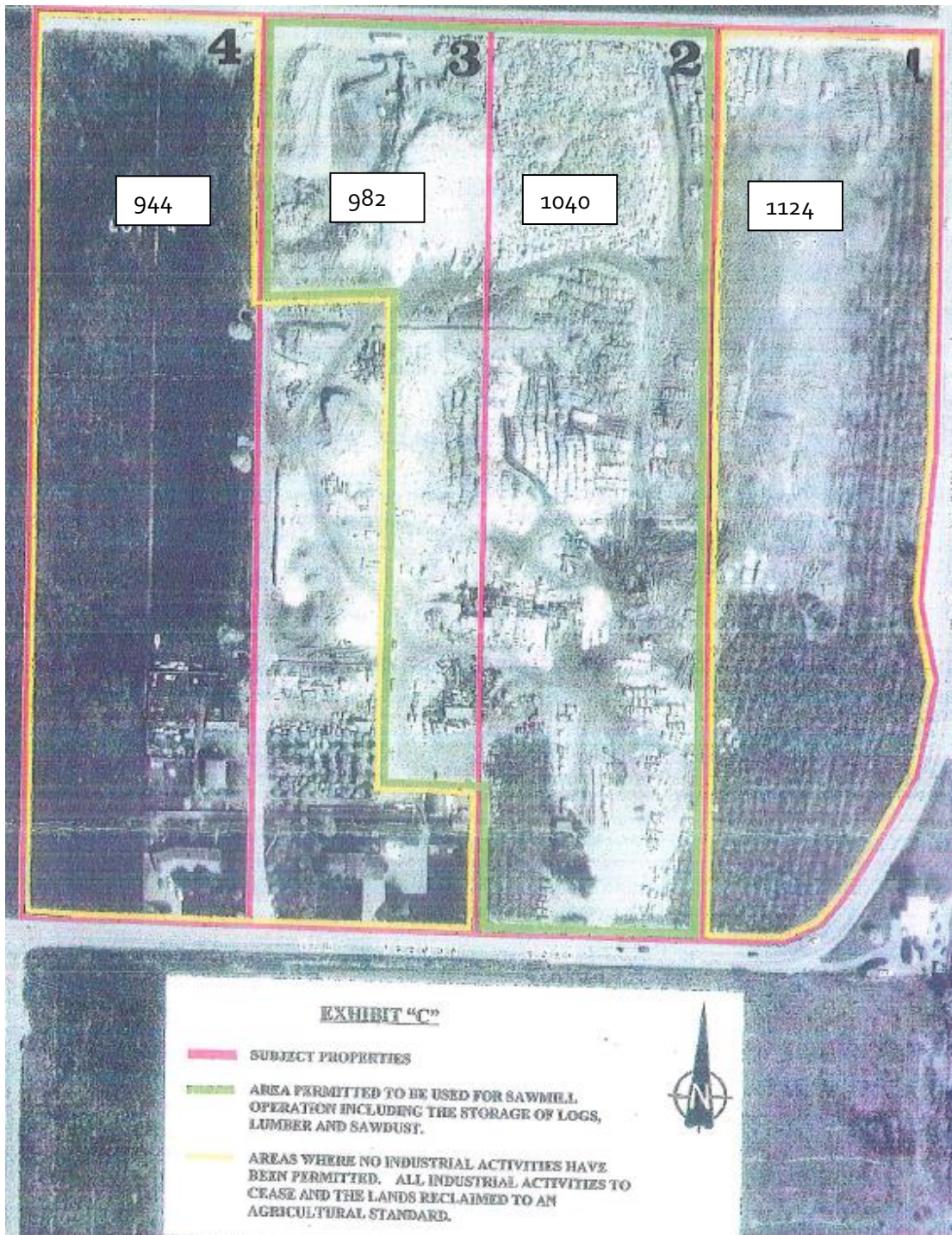


In 1998, due to neighbours complaints, the ALC conducted a site visit that revealed impacts on Lots 1, 2, 3 and 4, including a series of ditches and ponds to capture leachate from the operation. At the time, the ALC provided a letter in response to the expanded activities:

'the non-farm uses have expanded and diversified without the necessary ALC approvals.... From the Commission's perspective, the only authorized activity is the sawmill activity as it existed six (6) months before December 21, 1972 as amended by Resolution #993/85'.²

² ALC, June 4, 1998. Letter to Russo's from C. Fry, Agricultural Land Commission.

ALC Order #368 and 369/99 (1999)



Per ALC Order #368 and 369/99 (1999).

Green Area – Area Permitted for Storage of Logs, Lumber and Sawdust

Yellow Area – Area Must Be Reclaimed for Agriculture

In June of 1998, the ALC issued an order to restore uses in accordance with 1985 Resolution. A site visit had determined that the owner had undertaken unauthorized non-farm uses including storage and processing of waste material and pallet recycling. The order included restoring agriculture to all of 1124 Old Vernon Road (Lot 1), and half of 982 Old Vernon Road (Lot 3), which was the area that had not been authorized through resolution #993/85 for the storage of lumber, logs and sawdust.

Date	Action	Result / Direction
Aug. 7, 1997	ALC Compliance Letter <ul style="list-style-type: none"> Reports of wood dumping, recycling, selling pallets. 	Comply to ALC Resolution #993/85.
April 21, 1998	City of Kelowna Compliance Letter <ul style="list-style-type: none"> Breach of Soil Conservation Act, use contrary to approvals, and fire hazard. On Regional Waste List for recycling wood. 	Direction to cease and desist any uses contrary to ALC Resolution #993/85. Removal from the Regional Waste List for recycling wood.
April 27, 1998	City of Kelowna Fire Prevention Officer Letter	Require that they comply with Fire Codes.
June 9, 1998	ALC Site Visit Report <ul style="list-style-type: none"> Failure to comply with Neighbour Agreement per ALC Resolution #993/85. Use contrary to approval, site now being used for wood waste recycling. Dug outs collecting water. Agriculture on Lot 2 almost completely gone. 	Direction to cease and desist any uses contrary to ALC Resolution #993/85.
Sept. 22, 1998	ALC Resolution #738/98 <ul style="list-style-type: none"> Activities had expanded beyond the approval #993/85, both in area (Lots 1, 3 and 4), as well as use expansion into wood recycling. 	Require immediate blocking of affected water runoff to west. Fill in ponds. Consider fencing, vegetative screening to reduce impacts on adjacent ALR lands. Develop a restructuring plan, with a maximum area of 5.7 ha.
June 14, 1999	ALC Order # 368 and 369/99 <ul style="list-style-type: none"> Requirement to restore any lands to agricultural standard not included in the #993/85 approval. Requirement to post a bond of \$500,000 to ensure restoration of lands occurs. 	Require any lands over 5.7 ha approved in ALC Resolution #993/85 be restored to agriculture. Immediately stop importing waste materials to the properties.

Air Photo (2000)



By 2000, the focus on the sawmill had dropped, and the site had become a construction material waste operation. In addition, it has expanded beyond Lot 2 and the 1.7 ha of Lot 3 permitted in 1985, to Lots 1 to the east and part of Lot 4 to the west. A series of complaints had been lodged to the ALC.

Upon review, ALC concerns included:³

- Activities were inconsistent with the ALC and Soil Conservation Act;
- Demolition debris (e.g. drywall) did not make acceptable compost for a turf operation in the ALR;
- Demolition debris could contain chemicals from glues and preservatives;

³ ALC, June 6, 2000. Resolution #437/2000.

An application was then made to the ALC to use all of Lots 2 and 3 as a sawmill, wood waste and pallet compost operation, with the conditions that the impacted area of Lot 1 was returned to agriculture, and that the compost was used to support a turf farm operation on Lot 4. In addition, the proposal included selling the compost from Lot 4, as a part of the 2000 application.

ALC Resolution #437/2000 – The ALC resolution allowed sawmilling and wood waste recycling/composting, and pallet recycling, as a use on the property. The ALC conditions required:

- Allowed the installation of a fence on the west, east and north boundaries;
- No composed material used in the ALC unless sanctioned by the ALC;
- No turf farming without soil sampling and testing to the satisfaction of the ALC; and
- Reclaimed Lot 1 to agriculture.

Date	Issue	Action
	ALC Resolution #437/2000	<ul style="list-style-type: none"> • Granted permission to use all of Lots 2 and 3 for sawmilling, wood waste recycling/composting and pallet recycling. However, the composting must be tested in accordance with ALC approval. No compost material is to be used in the ALR without ALC sanction. • Require a fence along entire east, west and north boundaries. • ALC has a \$30,0000 bond for fencing. • Lots 1 and 4 are to be returned to agricultural standard. • "Clean Wood" only.

Air Photo 2006



The events noted below apply to 982 Old Vernon Road (Lot 3) ⁴:

2005

- Lot 3 was sold with approximately 122,330 m³ wood waste on site.

2006

- Lot 3 had a controlled burner set up to eliminate wood waste.

2007

- Numerous fires due to spontaneous combustion erupted. The largest one took 3 days to contain, costing the City of Kelowna \$80,000 in firefighting costs.

2008-2011

- Lot 3 owners hired a contractor to haul wood waste to a cogeneration plant in Armstrong (Tolko).

⁴ Valhalla Environmental Consulting, Jan. 2013. Land Capability Assessment 982 Old Vernon Road, (Lot 3) Kelowna, BC

Air Photo 2009



From approximately 2009-2011, the owners of 982 Old Vernon Road hired a contractor to haul wood waste to a cogeneration plant in Armstrong (Tolko). In addition, a landscape contractor was on site that was composting, using some of the historic wood waste to create compost.

Air Photo 2012



The land use shown in the 2012 ortho photo, showing 1124 Old Vernon Road (Lot 1, Plan KAP546) reclaimed for agriculture as required by the ALC Resolution #437/2000, as part of the approval to allow the non-farm use of Lot 2 and Lot 3 (1040 and 982 Old Vernon Road) to allow the use of a recycling facility on the property.

Air Photo 2015



4.2 Site Context

The subject property is located in the Rutland Sector of the City and is within the Agricultural Land Reserve. It is zoned A₁ – Agriculture 1 and is outside of the Permanent Growth Boundary.

Staff notes that 982 Old Vernon Road is within the Intensive Agriculture Area according to the City of Kelowna Zoning Bylaw No. 8000. Therefore, intensive agriculture such as poultry, mushrooms, and other intensive livestock operations would be permitted in this location under the bylaw.

The property slopes gently from the southeast corner to the northwest, with less than 2.5% grade change, from 416 metres above sea level (masl) at the northwest corner up to 426 masl at the southeast corner.

Parcel Summary – 982 Old Vernon Road:

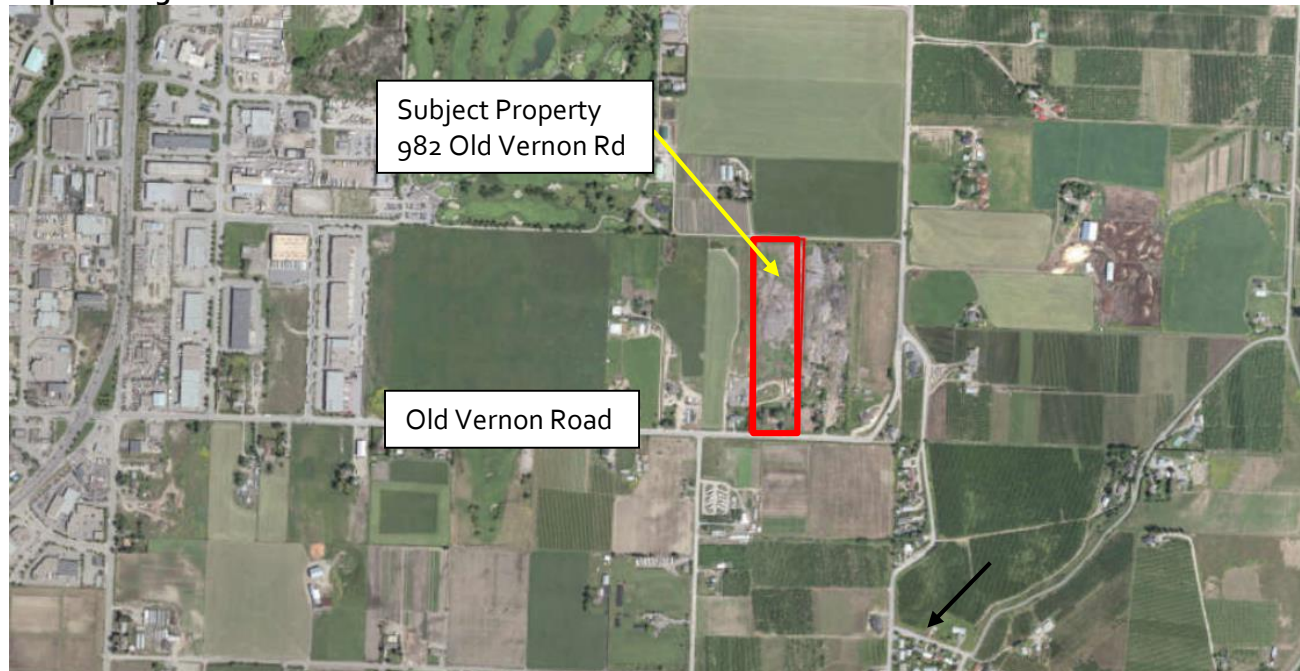
Parcel Size: 4.04 ha (10 acres)
 Elevation: 414 to 423 metres above sea level (masl) (approx.)

The subject property lies within the Resource Protection Area for land use according to the Official Community Plan. The properties to the west, south and east are also within the Resource Protection Area Future Land Use. The properties to the north are outside Kelowna, within the Regional District of the Central Okanagan.

The adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	Agriculture (RDCO) / ALR	Agriculture
East	A1 - Agriculture 1 / ALR	Wood Waste Storage
South	A1 - Agriculture 1 / ALR	Agriculture/ Agri-tourism Accommodation
West	A1 - Agriculture 1 / ALR	Agriculture

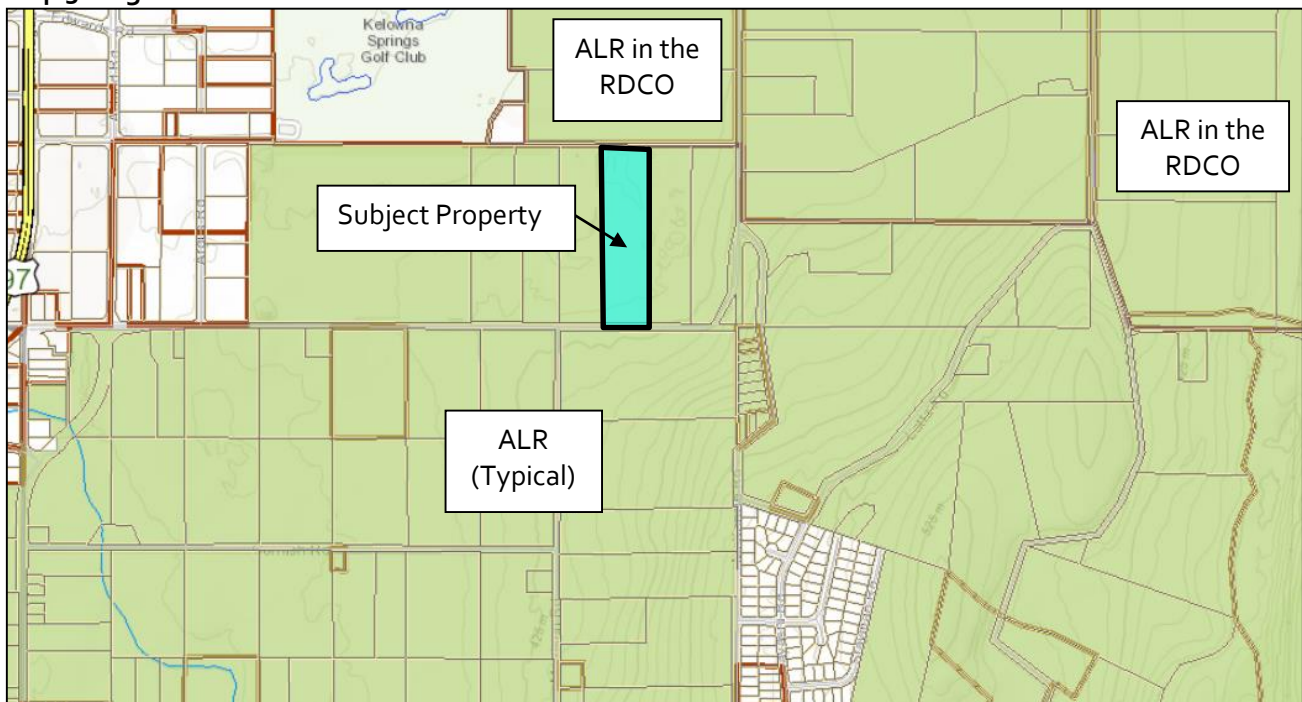
Map 1 – Neighbourhood Context

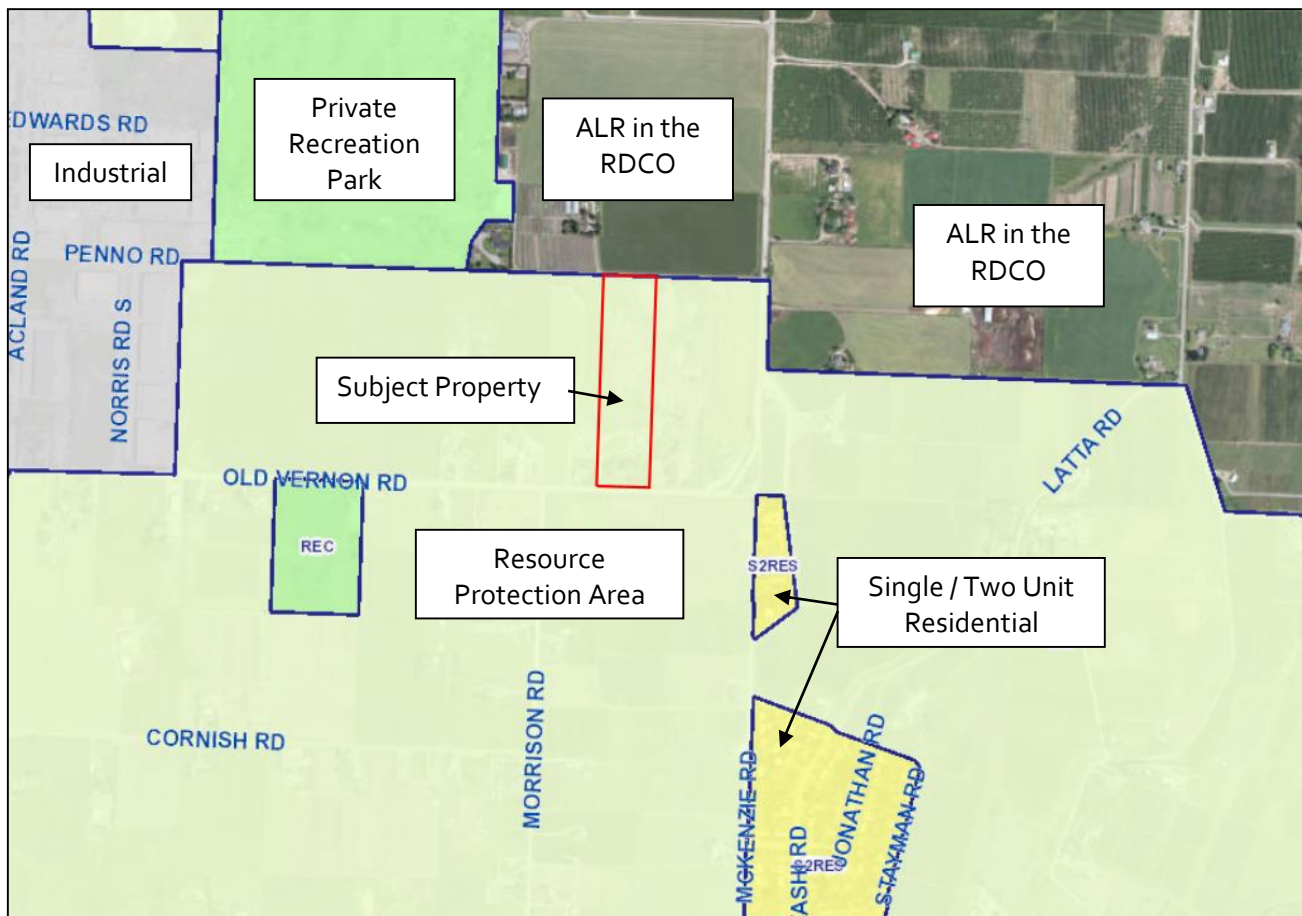


Map 2 – Permanent Growth Boundary



Map 3 – Agricultural Land Reserve



Map 4 – Future Land Use

4.3 Agricultural Capability Assessment

The agrology report indicates that 91% of 982 Old Vernon Road has an agricultural capability rating of Class 5, improvable to Class 3. Class 1 to 3 are considered prime agricultural land and relatively rare in the Okanagan. The required improvements include ditching in the spring, and irrigation in the summer months.

The report also estimates the cost to rehabilitate the soil on 984 Old Vernon Road⁵, to improve it to a point where the land could support soil based agriculture. This cost includes the following for this site:

- \$150,000 – Wood waste grinding
- \$711,698 – Import and spread clean topsoil (27,375 m³)
- \$178,941 – Trucking of soil

The total estimated cost to improve the 984 Old Vernon Road to support soil based agriculture for 984 Old Vernon Road noted in the report is \$1,040,639. It cites that the soil rehabilitation costs prohibit soil based agriculture.

⁵ Valhalla Environmental Consulting Inc., 2013. Land Capability Assessment – 982 Old Vernon Road, Kelowna, BC.

For Intensive Non-Soil Bound Livestock, the report states:

For access reasons and potential conflict with neighbouring property owners this site is not suitable for non-soil bound livestock. However, it would not be feasible to rehabilitate this area for non-soil bound livestock due to the prohibitive costs of such improvements⁶.

For Intensive Non-Soil Bound Horticulture, the report states:

The site is largely level. After remediation this property could be made suitable for Non-soil bound horticultural agriculture operation. However, it would not be feasible to rehabilitate this area for non-soil bound horticulture due to the prohibitive costs of such improvements⁷.

3.0 Current Development Policies

3.1 City of Kelowna Agriculture Plan (1998)

ALR Application Criteria⁸

Exclusion, subdivision, or non-farm use of ALR lands will generally not be supported. General non-support for ALR applications is in the interest of protecting farmland through retention of larger parcels, protection of the land base from impacts of urban encroachment, reducing land speculation and the cost of entering the farm business, and encouraging increased farm capitalization.

3.2 City of Kelowna Strategic Plan

Objective⁹: Sensitively integrate new development with heritage resources and existing urban, agricultural and rural areas.

Action towards this objective¹⁰: Evaluate the effectiveness of City policies and bylaws in preserving agricultural lands.

3.3 Kelowna Official Community Plan (OCP)

Land Use Designation Definitions

Resource Protection Area¹¹

Generally, land areas within this designation (whether they are within the permanent growth boundary or not) will not be supported for exclusion from the ALR or for more intensive development than that allowed under current zoning regulations, except in specific circumstances where the City of Kelowna will allow exceptions to satisfy civic objectives for the provision of park/recreation uses.

⁶ Valhalla Environmental Consulting Inc., 2013. Land Capability Assessment – 982 Old Vernon Road, Kelowna, BC.

⁷ Valhalla Environmental Consulting Inc., 2013. Land Capability Assessment – 982 Old Vernon Road, Kelowna, BC.

⁸ City of Kelowna Agriculture Plan. 1998. P. 130.

⁹ City of Kelowna Strategic Plan. 2004. P. 7.

¹⁰ City of Kelowna Strategic Plan. 2004. P. 29.

¹¹ City of Kelowna 2030 Official Community Plan. Future Land Use Chapter. P. 4.2.

Permanent Growth Boundary¹²

Lands within the permanent growth boundary may be considered for urban uses within the 20-year planning horizon ending 2030. Lands outside the permanent growth boundary will not be supported for urban uses.

Chapter 5 – Development Process**Objective 5.3 Focus development to designated growth areas.**

Policy .1 Permanent Growth Boundary¹³. Establish a Permanent Growth Boundary as identified on Map 4.1 and Map 5.2. Support development of property outside the Permanent Growth Boundary for more intensive uses only to the extent permitted as per the OCP Future Land Use designations in place as of initial adoption of OCP Bylaw 10500, except as per Council's specific amendment of this policy. Resource Protection Area designated properties not in the ALR and outside the Permanent Growth Boundary will not be supported for subdivision below parcel sizes of 4.0 ha (10 acres). The Permanent Growth Boundary may be reviewed as part of the next major OCP update.

Agricultural Land Use Policies**Objective 5.33 Protect and enhance local agriculture¹⁴.**

Policy .1 Protect Agricultural Land. Retain the agricultural land base by supporting the ALR and by protecting agricultural lands from development, except as otherwise noted in the City of Kelowna Agricultural Plan. Ensure that the primary use of agricultural land is agriculture, regardless of parcel size.

Policy .3 Urban Uses. Direct urban uses to lands within the urban portion of the Permanent Growth Boundary, in the interest of reducing development and speculative pressure on agricultural lands.

Policy .6 Non-farm Uses. Support non-farm use applications on agricultural lands only where approved by the ALC and where the proposed uses:

- are consistent with the Zoning Bylaw and OCP;
- provide significant benefits to local agriculture;
- can be accommodated using existing municipal infrastructure;
- minimize impacts on productive agricultural lands;
- will not preclude future use of the lands for agriculture;
- will not harm adjacent farm operations.

4.0 Technical Comments**4.0 Regional District of the Central Okanagan (RDCO)**

The subject property is located adjacent to lands within the Central Okanagan East Electoral Area of the Regional District that are also within the ALR. These lands represent larger A1 Agricultural zoned parcels that are designated 'Agriculture' in the Ellison Official Community Plan Bylaw No. 1124. Agricultural policy of the Ellison OCP states "Support the retention of large continuous blocks of agricultural land and discourage fragmentation." Regional Growth Strategy Bylaw No. 1336, Policy No. 3.2.5.2 states "Preserve and support sustainable agricultural activities and land base that enhances local agriculture through the

¹² City of Kelowna 2030 Official Community Plan. Future Land Use Chapter. P. 4.6.

¹³ City of Kelowna 2030 Official Community Plan. Development Process Chapter. P. 5.2.

¹⁴ City of Kelowna 2030 Official Community Plan: Agricultural Land Use Policies Chapter. P. 5.35.

strengthening of best practices, support of local and regional food systems and the expansion of local food markets and agri-tourism”.

It is difficult for RDCO Planning staff to weigh in on the non-farm use application, as there are numerous proposed uses outlined in the application. Input from neighbours is important to garner prior to Council consideration. Some high-level concerns include the following:

- The application rationalizes that the “non-farm uses . . . may help in remediating the land to somewhat of an agriculture standard” by creating an income; however, how will the income generated be guaranteed to be put towards reclaiming the land?
- The application and agrologist report claim there may be contaminated soils; however, one of the proposed uses includes housing people on site (i.e. a Mobile RV Park).
- The intent is to remove large amounts of wood/debris and contaminated soil; however, a number of the proposed uses intend to further cover the property and have the potential to contaminate the soil (i.e. general storage, construction material storage, material drop off centre, etc.)

Overall, it not clear how the non-farm uses proposed preserve or support sustainable agricultural activities and land base.

4.1 Development Engineering

Development Engineering has no comments at this time, however, a comprehensive report will be provided at the time of development application submission with the ALC agrees to the proposed activity on the subject property.

4.2 Fire Department

It is difficult to comment on the use of the site as there is not enough information. The clean-up of this property is important but until a processing plan, etc. is in place, it is difficult to approve on behalf of the fire department.

4.3 Ministry of Agriculture

See attached letter.

5.0 Application Chronology

Date of Application Received:	March 13, 2017
Site Visit:	May 19, 2017
Date Public Consultation Completed:	None required for Non-Farm Use Applications
Date of Revised Plans Received:	July 18, 2017

Agricultural Advisory Committee August 10, 2017

The above noted application was reviewed by the Agricultural Advisory Committee at the meeting held on August 10, 2017 and the following recommendations were passed:

Moved by Yvonne Herbison/ Seconded by Keith Duhaime

THAT the Agricultural Advisory Committee recommends that Council support Agricultural Land Reserve Application No. A17-0003 for the property located at 982 Old Vernon Road, Kelowna, BC to request permission from the Agricultural Land Commission for a Non-Farm Use to operate a storage facility for boats and recreational vehicles, composting and storage for a tree service company on a portion of the subject property.

Carried

Domenic Rampone - Opposed

ANEDOTAL COMMENTS:

The Agricultural Advisory Committee recommended support for this application and acknowledged that the owners have been working diligently on remediation and therefore recommend a 3-year Temporary Use Permit with an extension if there is continued progress. The Committee would expect non-farm use activities to cease when the remediation is completed. The Committee recommended visual screening for the purpose of respecting the neighbourhood. The Committee does not want the support of this application to set a precedence for other farmers and support is only being considered due to the history of this particular property and the clear goal of remediation on this property.

Report prepared by:

Melanie Steppuhn

Reviewed by: ☐ Todd Cashin, Subdivision, Suburban and Rural Planning Manager

**Reviewed by
Approved for Inclusion:** ☐ Ryan Smith, Community Planning Department Manager

Approved for Inclusion: ☐ Doug Gilchrist, Divisional Director, Community Planning & Real Estate

Attachments:

Site Photos

Ministry of Agriculture Referral Letter (A. Skinner)

Applicant ALC Act Application

Agrology Report – Valhalla Environmental Consulting Inc. – 982 Old Vernon Road (2013)

PHOTOS

Photo 1. Screening / Composting Operation



Photo 2. Tree Service Operation (Storing Vehicles)



Photo 3. Composting and Screening Operation



Photo 4: Historic Wood Waste



Photo 6: Composting Operation (Foreground) and Tree Service Company (Background)





File: A-17-003

To: City of Kelowna

Comments for consideration regarding application for non-farm use @ 982 Old Vernon Road:

- It's not in the best interest of agriculture to lose potentially productive farm land to non-farm uses. Non-farm uses are considered by ALC to allow for the greatest flexibility for future agricultural use.
- Current state of the property & costs of clean up are acknowledged, however information to support a level of contamination and compaction on the site that would preclude future soil based agriculture are not clear. Soil capability subclasses provide insight into management considerations but don't preclude agricultural production.
- Options for non-soil based agriculture enterprises in the ALR, even if deemed not currently feasible should not be discounted as agriculture production, practices & markets are constantly changing & uses for greenhouse, poultry, swine etc may be potential future uses.
- The parcel is situated & supported as a farming area, productivity of surrounding orchards should be considered.
- Commercial/industrial businesses have the option to locate within other areas; farming depends on being able to access land in the ALR for primary production. Long term access to ALR lands is in the interest of agriculture and food security.
- Temporary/short term non-farm use would provide flexibility to support future agriculture use. Low impact non-farm use would be preferable, that will minimize impacts of further contamination and compaction.
- Non-agricultural uses in the ALR, have potential to create conflict with adjacent agriculture use as practices may not always be compatible.
- Regardless of current agriculture use on adjacent land, consider adequate set-backs & buffers to address noise, dust or odour from future operations on farmed property. If long term non-farm use is permitted, a requirement for planting and maintaining a vegetative buffer on the non-farmed property to mitigate conflict and disturbances which can include industrial farms or intensive agriculture operations. ["Guide to Edge Planning" BC Ministry of Agriculture] GUIDE TO EDGE PLANNING .

Thanks for the opportunity to comment.

Anne Skinner *P.Ag* – Regional Agrologist
BC Ministry of Agriculture, Kelowna
250-861-7272 Email: anne.skinner@gov.bc.ca

Provincial Agricultural Land Commission - Applicant Submission

Application ID: 56157

Application Status: Under LG Review

Applicant: MANRAJ KANDOLA , Jeetender Kandola

Local Government: City of Kelowna

Local Government Date of Receipt: 03/09/2017

ALC Date of Receipt: This application has not been submitted to ALC yet.

Proposal Type: Non-Farm Use

Proposal: We are applying for non farm use as this property historically has been utilized as an industrial sawmill operation. The operations ceased in 2005 and since then many efforts have been attempted to reclaim back to farm land. As per Agrologist report (See attached) it is almost impossible to bring back to viable farm land.

With non-farm uses we could hopefully generate enough income to remediate the land further as there is large amounts of wood/debris to be dealt with. Eventually remove contaminated soil and replace with clean fill.

Mailing Address:

982 OLD VERNON ROAD

KELOWNA , BC

V1X 6T8

Canada

Current Use of Parcels Under Application

1. Quantify and describe in detail all agriculture that currently takes place on the parcel(s).

No agriculture activity.

Previously sawmill operation.

2. Quantify and describe in detail all agricultural improvements made to the parcel(s).

When sawmill operation seized in 2002, wood piles were approximately estimated at 160,000 cubic meters.

We have picked away at the pile of wood debris and have approximately 30,000 cubic meters of wood left over.

To further make land improvements , attached are non farm uses we think may help in remediating the land to somewhat of a agriculture standard.

Biggest hurdle now is how to remove rest of the oversize contaminated wood.

3. Quantify and describe all non-agricultural uses that currently take place on the parcel(s).

Piles of wood debris still on property that needs to be dealt with from seized sawmill operation.

Adjacent Land Uses

North

Land Use Type: Agricultural/Farm

Specify Activity: Residential/Hay Field

East

Land Use Type: Agricultural/Farm

Specify Activity: Residential/Remnant Sawmill

South

Land Use Type: Agricultural/Farm

Specify Activity: Residential/Agritourist Accomodation (RV Park)

West

Land Use Type: Agricultural/Farm

Specify Activity: Residential

Proposal

1. How many hectares are proposed for non-farm use?

4 ha

2. What is the purpose of the proposal?

We are applying for non farm use as this property historically has been utilized as an industrial sawmill operation. The operations ceased in 2005 and since then many efforts have been attempted to reclaim back to farm land. As per Agrologist report (See attached) it is almost impossible to bring back to viable farm land.

With non-farm uses we could hopefully generate enough income to remediate the land further as there is large amounts of wood/debris to be dealt with. Eventually remove contaminated soil and replace with clean fill.

3. Could this proposal be accommodated on lands outside of the ALR? Please justify why the proposal cannot be carried out on lands outside the ALR.

This is a unique property where sawmill operations predated the ALC rules and regulations so it was grandfathered to continue operating as a sawmill operation on ALR land. This orphaned sawmill on ALR land needs to be reclaimed back to somewhat agriculture status. Therefore the reason for asking "non-farm use" is to continue to reclaim farm land.

4. Does the proposal support agriculture in the short or long term? Please explain.

In the long run there may be benefits to agriculture use. This project isn't a small undertaking as we have already invested over a decade in trying to reclaim the land back to agriculture use. Any property heavily utilized for Industrial operation for decades is going to have its challenges. The property wasn't monitored over the years as there are other products than wood dumped on this property.

There are no promises as there will be more challenges as we proceed with a non farm use to help off set some costs to rehabilitate the land. We have asked for a broad range of uses as we don't know which project would work best for this property.

In the last decade we have had to shift gears many times as we had many hurdles to overcome as we get deeper into the wood piles hence why we ask for a broad range of uses for "non-farm use".

Applicant Attachments

- Professional Report - Agrologist Appendices A
- Professional Report - Agrologist Report
- Professional Report - Agrologist Report Appendices B
- Professional Report - Agrologists Report Appendices C
- Professional Report - Agrologist Report Appendices D
- Professional Report - Agrologist Report Appendices E
- Professional Report - Agrologist Report Addendum
- Proposal Sketch - 56157
- Certificate of Title - 012-206-687

ALC Attachments

None.

Decisions

None.

**Land Capability Assessment
982 Old Vernon Rd., Kelowna, BC
Lot 3, Plan 546, Section 1, Township 23, ODYD
PID 012-206-687**

**For: Kandola
982 Old Vernon Rd.,
Kelowna, BC V1X 6T8**

File: 12E043

January 9, 2013

Executive Summary

Valhalla Environmental Consulting Inc. (VEC) was retained by Manraj and Jeetender Kandola (Landowners) of 982 Old Vernon Rd., Kelowna, BC to complete a Land Capability Assessment for agriculture on a parcel in the City of Kelowna, BC. The purpose of this inspection was to assess the agricultural capability and suitability of the Subject Property. The Clients requested this inspection to explore their land use options on the Subject Property that is wholly within the Agricultural Land Reserve (ALR).

The Subject Property is 982 Old Vernon Rd., Kelowna, BC and is legally described as Lot 3, Plan 546, Section 1, Township 23, ODYD, PID 012-206-687. The site is a 4 hectare (10 acre) parcel and is entirely contained within the ALR. The site was used as a wood mill from the 1950s to the 2000s.

This assessment determined that +/-91% (3.65 ha) of the property area has an unimproved rating of Class 5 agricultural capability due to a soil moisture deficit in the summer, and excess water conditions in the spring, fall and winter. This area is improvable to Class 3 with the addition of irrigation in the warm months and water control such as ditching and/or artificial drainage for the spring, fall and winter months. A root restricting layer and low perviousness were consistent across the property and represented a soil structure limitation of Class 3. The soil structure limitation is less severe than the soil moisture limitations and may be improvable by an intensive and costly process of removal of poor quality admixed fill, decompaction of the underlying clay layer, and replacement of top soil to a depth of at least 0.75m.

The Subject Property was included in the ALR when the reserve was established (1974-1976), but apparently was permitted to continue with the industrial non-farm use (sawmill) that pre-dated the ALR. As the mill operated into the mid 2000's cumulative impacts have occurred over 35+ years since the inclusion of the Subject Property into the ALR. The Landowners report that to the best of their knowledge, the Subject Property has not been used for agricultural purposes since the 1950's. Site improvements have been done by the current Landowners to remediate some of the impacts of the historic use and rehabilitate the site. Though significant, these improvements have not been completed as they have proved to be economically non-feasible for an end-use of agricultural purposes. The recovery of the rehabilitation and improvement expenses by an agricultural production operation would be unlikely and may prove to be economically prohibitive.

While the landowners are exploring several options for future land uses of the Subject Property, they have not decided upon a specific activity at this time. However, due to the significant amount of site rehabilitation yet required, it may be difficult for them to recover their total investment costs.

The Subject Property does not contribute to regional and local Agricultural Capacity. The Subject Property has not been farmed since the 1950's, during which time it

appears that the agricultural capability has continued to deteriorate. Continued industrial use on the Subject Property will not adversely affect the local Agricultural Capacity.

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APPENDICES

APPENDIX A: Maps & Figures – 982 Old Vernon Rd., Kelowna BC

APPENDIX B: Site & Soil Pit Photos - 982 Old Vernon Rd., Kelowna BC

APPENDIX C: Agricultural Capability Reference Documents (Excerpts)

APPENDIX D: Analytical Data - 982 Old Vernon Rd., Kelowna BC

1 Introduction

1.1 Report Description

Valhalla Environmental Consulting Inc. (VEC) was retained by Manraj and Jeetender Kandola, land owners of 982 Old Vernon Rd. Kelowna, BC, to complete a Land Capability Assessment for agriculture on a parcel in the City of Kelowna, BC. The purpose of this inspection was to assess the agricultural capability and suitability of the Subject Property. The Client requested this inspection to explore their land use options on the Subject Property that is wholly within the Agricultural Land Reserve (ALR).

1.2 Proposed Land Use & Agricultural Development Plan

The purpose of the assessment is to classify the land capability for agriculture of the site to explore land use options for the Subject Property. The proposed future land use is industrial.

1.3 Statement of Qualifications

Matthew Davidson, P.Ag., Senior Environmental Scientist, Assessor

Matthew is an Environmental Scientist and consulting Professional Agrologist with 11 years experience in environmental assessments, impact assessments, soil surveys, land remediation, reclamation and ecological restoration. Matthew has been a registered professional agrologist (PAG) in British Columbia since 2008.

Catherine Orban, P.Ag., Senior Agrologist, Report Review

Catherine Orban has a Master of Science Degree in Geography, specializing in Soil Science. She has been conducting soils assessments since 1985. She has been a registered professional agrologist (PAG) since 1999, first in Alberta, and later in British Columbia. Catherine has worked on a variety of soils assessment, management, remediation and reclamation projects in the agricultural, oil and gas, and environmental sectors in both provinces.

2 Site Conditions & Land Use

2.1 Site Conditions

The Subject Property is 982 Old Vernon Rd., Kelowna, BC and is legally described as Lot 3, Plan 546, Section 1, Township 23, ODYD, PID 012-206-687. The site is a 4 hectare (10 acre) parcel and is entirely contained within the ALR. The site is approximately level and was used as a wood mill from the 1950s to the 2000s. See Appendix A Figures 1 & 2 for more detail on site size and location.

2.2 Land Use: Subject Property and Surrounding Area

Approximately 0.36 ha of the property is built upon and used for the residential purposes at this location. Buildings on the Subject Property include one house and storage shed. Outside of the buildings is residential yard and parking area. The remaining area 3.64 ha has been used historically as the mill site. Wood waste, equipment parking and gravel roads encompass this area. Past agricultural uses were unknown to the landowner as the site has operated as a mill from the 1950's to 2005.

The zoning for the subject property is Agriculture 1 (A1) which permits 4 ha lots, except when in the ALR where 2 ha lots are permitted. A1 zoning also allows one detached home, one mobile home and one accessory building home per lot.

Adjacent properties to the south, east and west have Agriculture 1 (A1) zoning. Southeast of the property is a subdivision (outside of the ALR) that has been constructed with a combination of Rural Residential 3 (RR3) (this zoning permits 1 ha lots un-serviced and fully serviced lots at 0.16ha) and Two Dwelling Housing (RU6) (allowing lot sizes down to 0.04 ha). West southwest of the property is a property with Parks and Open Spaces (P3) zoning which remains in the ALR and is used as a golf driving range. The properties adjacent to north are cultivated fields and are in the RDCO.

Table 1: 982 Old Vernon Rd., Kelowna, BC – Surrounding Land Use

Location	Land Use	ALR Status	Approximate Lot Size ha
Subject Site	old mill / residential	In	4
North	residential / hay field	In	8
Northwest	golf course	Out	43
West	hayfield / commercial lot	In	4
South	hayfield / residential / RV parking	In	8
Southeast	subdivision	out	18
East	old mill / residential / commercial	In	4

2.2.1 Historic Land Use

The Subject Property was included in the ALR when the reserve was established (1974-1976), but apparently was permitted to continue with the industrial non-farm use (sawmill) that pre-dated the ALR. As the mill operated into the mid 2000's cumulative impacts occurred over 35+ years from the inclusion of the Subject Property into the ALR. The Landowners report that to the best of their knowledge, the Subject Property has not been used for agricultural purposes since the 1950's. To date, a number of site improvements have been completed to remediate some of the impacts of the historic industrial use and rehabilitate the site. Though significant, these improvements and rehabilitation have not been completed as they have proved to be economically non-feasible for an end-use of agricultural purposes. A summary of the remediation work to date and estimated costs of remaining agricultural rehabilitation can be viewed in below, sections 2.2.2 and 2.2.3.

2.2.2 Improvements to Date

The current Landowners obtained the Subject Property in 2005. Since 2005 the Landowners have undertaken the following improvements to remediate some of the impacts from historic land uses. The information for improvements to date has been provided by the Landowner, Manraj Kandola through personal communication (pers.comm. – MK). All costs are approximate.

2005

- Land purchased by current owners 4.01 ha (10 acres) at 982 Old Vernon Rd metric is generally used for volume and area calculations – eg. 0.75 m topsoil
- Upon purchase Landowners shut the sawmill down, as it was outdated and hazardous.
- ~122,330 m³ (160,000 yards³) of wood waste was stockpiled on the Subject Property at this time

2006

- Controlled curtain burner set up for 3 months to eliminate wood waste
- Approximately \$100,000 was spent to reduce total wood waste volume

2007

- Numerous fires caused by spontaneous combustion of the wood waste
- City of Kelowna, Fire Department attended the site numerous times
- Largest fire attended by City of Kelowna fire department required them on site for 3 days to containing the fires, which cost the City of Kelowna approximately \$80,000.
- Private water tankers and excavators were employed full time by the Landowners to control the fires
- Landowners purchased fire equipment for the site at a cost of \$50,000

2008-2011

- Contractor hired to screen and truck the wood waste to a cogeneration plant in Armstrong, BC (Tolko)

- \$25,000 in additional costs incurred
- Wood waste screening (~75% of volume remaining) was done to mitigate fire risks and facilitate further site rehabilitation
- An oversized pile of wood waste remains which requires grinding
- As of 2012, approximately 100,000 m³ (130,000 yd³) of the original 122,330m³ (160,000 yd³) of wood waste have been processed and/or removed from Subject Property. Currently, approximately 23,000m³ (30,000 yd³) of wood waste remains on the Subject Property.

Approximate costs incurred to date for rehabilitation by property owners: \$175,000; and

Cost to City of Kelowna for Fire Protection: \$80,000

2.2.3 Future Improvements

To be suitable for intensive soil bound agriculture, the Subject Property requires additional rehabilitation and improvements including:

- Wood waste grinding of oversized materials, approximate costs provided by a grinding contractor \$150,000 (pers.comm. – MK)
- Import and spread clean topsoil to a depth of 0.75m for 3.65 hectares (27,375m³ or 35,805 yd³)

Soil Cost Estimate

- 27,375m³ needed at \$26/m³ = \$711,698
- Soil costs were determined by an average of quoted prices from 4 suppliers in the Kelowna area for large volume sales.

Trucking Cost Estimate

- Assume trucking cost of \$ 119.5/hr
- Assume 18m³ (24yd³) truck & pup = 1520 truck loads for
- Assume 1hr trip per load = 1520 hrs
- Trucking cost of 1520 x 117.66/hr = \$ 178,941

Trucking costs were determined by an average of quoted prices from 4 service providers in the Kelowna area.

*Costs for spreading and grading were not included in this estimate

The estimated remaining cost for remediation of this site for agricultural purposes is approximately \$1,040,639

2.2.4 Brownfield Concerns

Due to the historic uses of the subject lot and current uses on neighbouring lots, there is potential for contamination of soils and, or groundwater on the Subject Property. Site investigations with respect to contamination and land remediation are outside the scope of this assessment, but may be required prior to returning this property to agricultural or alternative uses. The cost of such investigations and land remediation has not been included in this assessment but should not be overlooked in consideration of future uses on the Subject Property. Such assessments are costly

as are any soil or groundwater remediation projects. Site investigation costs may be required and would therefore add to the cost of total remediation before the site may be used for future purposes (for example: industrial, residential, agricultural).

3 Soils Information

Soil conditions are a key factor in determining the overall agricultural capability and suitability of any given site. The soil conditions on the Subject Property are described in this section including; published government survey information and a description of the existing soil conditions, based on the lab data and observations made during the on-site inspection, conducted on October 24, 2012.

3.1 Government of British Columbia – Soil survey

Baseline soils information was obtained from the BC Ministry of Environment (MOE) Soils of the Okanagan and Similkameen Valleys, which comprises Report No. 52 of the BC Soil Survey (1986); and the accompanying mapping at 1:20,000 scale. The Subject Property is found on Mapsheet 82E.094 (Appendix A, Figure 5), which indicates that three soil complexes are found on the parcel. The general characteristics of these soils are summarized in Table 2, below:

Table 2: 982 Old Vernon Rd. Kelowna BC – Surrounding Land Use

Site Map Polygon	80% Westbank (WK) / 20% Summerland (SR)	100% Westbank (WK)	100% Glenmore (GL)
Location	The northwestern corner	Northeast / Central portion	Southern Portion of the property
Landform	Nearly level to strongly sloping stratified glaciolacustrine sediments / Nearly level to moderately sloping stratified glaciolacustrine sediments	Nearly level to strongly sloping stratified glaciolacustrine sediments	Nearly level to moderately sloping stratified glaciolacustrine sediments
Description	100 or more cm of clay, clay loam or silty clay / 100 cm or more of silt loam, silty clay loam or clay loam	100 or more cm of clay, clay loam or silty clay	100 cm or more of silt loam, silty clay loam or clay loam
Soil Profile Drainage	Moderately well / Well to Moderately Well	Moderately well	Well to moderately well
Stone Content	non-stoney	non-stoney	non-stoney
Agricultural Suitability	(WK) Tree fruits, Vineyards, Hay production, Pasture / (SK) Poorly suited for arable agriculture	(WK) Tree fruits, Vineyards, Hay production, Pasture	(GL) Pasture, Hay, Tree Fruits
Soils	Othic Grey Luvisol / Eluviated Dark Brown	Othic Grey Luvisol	Eluviated Dark Brown

Source: MoE, Technical Report 52, Soils of the Okanagan and Similkameen Valleys, which comprises Report No. 52 of the BC Soil Survey (1986)

3.2 Soils on Site Inspection – Methods

Three soil test pits (TP1 to TP3) were excavated to depths of 130 cm by a small tracked excavator on October 24, 2012. All test pits were located on sites that represented variations in topography, vegetation, land use and, or mapped soil characteristics. The soil test pits and site features were mapped and photographed (Appendix A, Figures 7 & 8; and Appendix B). The soil profiles were examined and described according to conventions from the Canadian System of Soil Classification, Third Edition (Soil Classification Working Group, 1998). It was not within the scope of this assessment to examine the soils for the purposes of classification at the Series level. A total of 8 representative soil samples were taken from all of the test pits and submitted for laboratory analysis of one or more of the following parameters: various soil nutrients, pH, electrical conductivity, available water storage capacity, and soil particle sizes/textures. (Appendix D).

Four soil units were identified on the Subject Property (as indicated by Roman numerals I - IV) through the detailed soils assessment at a mapping scale intensity of +/- 1:3,000 (Appendix A, Figure 9; and Table 3, below). Information obtained

during the site inspection was combined with the lab results to provide site-specific details that were used to fine-tune the soils data presented in Soil Report No. 52 (1986), which was based on mapping at 1:20,000. The soil units were primarily defined by soil physical and morphological properties. The profiles at each test pit within each unit shared a number of similarities including horizon properties, depths and sequences. Detailed test pit logs and photographs have been included with this report (Appendix B, Photos 3-9). The soil units as mapped for the Subject Properties at a scale of +/- 1:3,000 are described in Table 3, below

TABLE 3: 982 Old Vernon Rd., Kelowna, BC - Site Inspection : Soil Unit Summary

Soil Unit	Test Pits	Top Soil Depth (cm) / Colour	Soil Profile Texture ¹	Stone Content ²	Soil Profile Drainage	Topography	Land Use	Area (ha)	%Total Area	Notes
I	1	54 / Br	Sandy Loam / Clay / Heavy Clay	10% / 0% / 0%	Poorly Drained	Nearly Level Slope 1%	Former Mill Yard	0.59	15%	Mixed soil in top layer with wood waste
II	2	15 / DkBr	Clay / Clay / Heavy Clay	10% Gravel / 0% Gravel / 0% Gravel	Poorly Drained	Nearly Level Slope 1%	Former Mill Yard	2.02	50%	Mixed soil in top layer with wood waste, rooting depth 30cm
III	3	35 / Br	Loam / Heavy Clay / Heavy Clay	non-stoney	Poorly Drained	Nearly Level Slope 2%	Former Mill Yard	1.04	26%	Mixed soil in top layer with wood waste, rooting depth 30cm
VI	NA	NA	NA	NA	NA	Gentle slope 5%	House, shed, yard	0.36	9%	Residential portion of the lot

¹ based by laboratory testing

² visual observation

3.3 Comparison to BC Government Soil Survey & Mapping

With the exception of the extensively disturbed upper, admixed fill-soil horizon, the distribution of soil types as identified in the site inspection was generally consistent with the information presented in Soil Survey Report No. 52. In general, the minor differences in soil mapping have been attributed to the different scale intensities as they applied to the site. The BC Soil Survey is based on generalized mapping at a scale of 1:20,000, which is too broad to capture all the subtle variations in site conditions that were identified during the site inspection which was conducted at a detailed mapping scale intensity of +/- 1:3,000.

4 Climatic Capability for Agriculture

Climatic capability for agriculture is based on the limitations associated with the combined influence of the climate and soil moisture regimes as well as the thermal limitations for any given location. Climatic capability is a modifying component used in determining the overall agricultural capability and suitability of a given site. The climatic capability for agriculture of the Subject Property is described in this section; beginning with published government information, followed by that obtained during the on-site inspection.

4.1 Government of British Columbia – Climatic Capability

General reference information as well as baseline climatic data for the Kelowna area was found in Climatic Capability for Agriculture (BC Ministry of Environment, 1981), and Land Capability Classification for Agriculture in British Columbia, Manual 1 (BC Ministry of Agriculture and Food and Ministry of Environment, 1983).

It is important to note that the climatic capability ratings are based entirely on climatic conditions (primarily precipitation and temperature) at a given site. Soil characteristics and other site conditions are not considered in these ratings. The overall agricultural capability of the Subject Property is addressed in Section 5 of this report.

The MOE Technical Paper 4; Climate Capability Classification for Agriculture in British Columbia and accompanying mapping 82E/NW indicates the area of the Subject Property sits on a boundary between Class 5 (west portion) or 6 (east portion) improvable to Class 1bF / 1cG respectively, which indicates an estimated annual climatic moisture deficit (CMD) of 350 mm (BC MOE, 1981, Table 1). Class 5 land has restricted use for perennial forage and specially adapted crops. Class 6 land is considered non-arable but capable of producing native or uncultivated perennial forage crops. Soil moisture deficiency (A) is indicated as a primary limitation. Areas in Class 1aF have occurrences of minimum temperature near freezing that adversely affect plant growth during the growing season. Areas in Class 1cG have insufficient heat units during the growing season. See Appendix A Figure 7 for more detail.

4.2 Site Inspection

Site-specific climatic capability for agriculture was determined using data from TP1-TP3 which are located in, and representative of, different soil units throughout the Subject Property. Lab data obtained for the soil samples was used in conjunction with published regional data to calculate the available water storage capacity (AWSC) and soil moisture deficit (SMD) values for the upper 50 cm of the soil profiles. The results were used to determine site-specific climatic and soil capability ratings for agriculture on the Subject Property which have been summarized in Table 4, below. A description of agricultural/climatic capability classifications is found in Appendix C.

TABLE 4: 982 Old Vernon Rd., Kelowna BC - Soil Moisture Balance & Climatic Capability Ratings

	Soil Moisture Balance								Climate Capability Rating			
Site & Soil Horizon	Total Depth	Matrix Texture	Matrix AWSC ¹	Matrix Fraction	CF Adjstued AWSC	Interval AWSC	Climate H ₂ O Deficit ²	Soil H ₂ O Balance ³	Unimproved H ₂ O Subclass ⁴	Improved H ₂ O Subclass ⁴	Thermal Rating ²	Improved Overall Subclass
	cm	lab	mm/cm	lab	mm/cm	mm	mm	mm				
TP1/SU-I												
Fill*	50	SL	0.75	0.89	0.67	33.53						
Interval	50					33.53	350	-316.48	5A	3A	1aF	3A
TP2/SU-II												
Fill	15	C	2.22	0.89	1.98	29.77						
B	20	C	1.33	1.00	1.33	26.57						
C**	15	HC	1.37	1.00	1.37	20.53						
Interval	50					76.87	350	-273.13	5A	1	1aF	1
TP3/SU-III												
Fill	35	L	1.99	0.79	1.58	55.16						
B	15	HC	1.48	1.00	1.48	22.13						
Interval	50					77.30	350	-272.70	5A	1	1aF	1

* Used Ap data for TP2 as top horizon was similar in texture and coarse fragment content

** Used Ap data for TP1 as top horizon was similar in texture and coarse fragment content

¹ From Lab Data

² Technical Paper 4, 1981, MoE Climatic Capability Classification for Agriculture in British Columbia

³ (Interval AWSC) - (Climate H₂O Deficit) = Deficit (negative) or Surplus (positive)

⁴ Based on - MoE Manual 1 (BC Ministry of Environment, 1983)

4.3 Comparison of BC Government and On-Site Inspection Ratings

In general the site inspection finding showed that the climatic capability for this location corresponds with the provincial climatic capability mapping. Approximately 76% of the Subject Property was rated at Class 5 improvable to Class 1. Approximately 15% of the Subject Property was rated at Class 5 improvable to Class 3. The remaining 9% of the Subject Property was not assessed as it was deemed unavailable for agricultural use. The differences between the site inspection findings and provincial mapping are in part due to the different scale intensities as they applied to the Subject Property. The MOE ratings were based on mapping at a scales of 1:100,000, which are not intended to account for the all the subtle variations in site-specific conditions (eg. soil texture, coarse fragment content, topography, slope angle and aspect) that were identified during the on-site inspection, at a detailed mapping scale intensity of +/- 1:3,000.

Please see Section 5.3 for a comparison between the overall agricultural capability mapping by MOE (including climatic capability) and the capability as determined by this assessment.

5 Agricultural Capability

Agricultural capability ratings are site-specific and based primarily on the influence of soils and climate, as modified by topography for any given location. The Canada Land Inventory (CLI) rating system uses a variety of measurable parameters (some of which are listed below) to provide objective classifications of agricultural capability:

- Slope angle and complexity;
- Depth to bedrock;
- Soil moisture deficits;
- Excess soil moisture;
- Coarse fragment content (stoniness);
- Soil texture;
- Depth to groundwater;
- Soil fertility; and
- Soil salinity

This interpretive system groups soils into seven classes according to potentials and limitations for agriculture (See Appendix C for capability class and limitation descriptions). Lands in Classes 1 to 4 inclusive are considered capable of sustained production of common cultivated field crops. Class 5 lands are capable of use only for producing perennial forage crops or specially adapted crops. Class 6 lands are capable of only providing sustained natural grazing for domestic livestock. Class 7 lands are incapable of use for either arable culture or grazing. (BC Ministry of Agriculture and Food, and Ministry of Environment, April 1983).

In most cases, both "unimproved" and "improved" agricultural capability ratings are determined for the area that is under consideration. The unimproved rating reflects the capability of the property in its natural or current state. The improved rating is theoretical and represents the anticipated agricultural capability of the property after improvements (eg. irrigation, enhanced drainage, soil amendments, fill placement, stone-picking, and/or subsoil decompaction) are made to mitigate the limitations. Some limitations, such as shallow bedrock, slope complexity and slope angle, are not considered to be improvable under "typical farming practices".

5.1 Government of British Columbia – Agricultural Capability

General reference information for agricultural capability was provided by Land Capability Classification for Agriculture in British Columbia, Manual 1 (BC Ministry of Agriculture and Food and Ministry of Environment, 1983; Appendix C). Site-specific agricultural capability mapping for the Subject Property was found on Mapsheet 82E.094 @1:20,000 (BC Ministry of Environment, 1987). (Appendix A, Figure 6).

The MOE agricultural capability polygons corresponded directly to the soil polygons mapped in Soil Survey Report No. 52, and are summarized in Table 5, below:

TABLE 5: 982 Old Vernon Rd., Kelowna BC- MOE Agricultural Capability Mapping @ 20,000

Location	Agricultural Capability Rating	
	Unimproved	Improved
Northwestern Area	8:8AD 2:6WN	8:3D 2:4WD
Northeastern and Central Area	4AD	3D
Southern Area	3AD	7:3D 3*3D

A - Soil Moisture Deficit

D - Soil Structure

N - Salinity

W - Excess Water

Soils on Site Inspection

The overall agricultural capability ratings for the Subject Property were mapped and then compared to the soil unit polygons as defined by the site inspection (Section 3.2, above). In this case, the boundaries for the agricultural capability (AC) Units as determined by the field investigation (indicated by numbers 1-3) do not entirely correspond to those mapped for the soil units (Appendix A, Figures 9 and 10). AC unit 1 corresponds with SU 1. AC unit 2 is comprised of SU 2 and 3. Information obtained from the field inspection was combined with published soils, topography and climate data (as described in Sections 3.0 and 4.0) then applied to the criteria presented in MOE Manual 1 to determine the site-specific agricultural capability ratings at a mapping scale intensity of +/-1:3,000. The agricultural capability ratings for the Subject Property, based on the site inspection are summarized in Table 6, below:

TABLE 6: 982 Old Vernon Rd., Kelowna BC- Site Inspection: Agricultural Capability Ratings

Soil Unit	Ag Capability Unit	TP	Unimproved Ag Capability ²	Improved Overall Ag Capability ²	Area (ha)	% Total Area ³
I	1	1	5AW	3WAD	0.59	15%
II	2	2	5AW	3WD	2.02	50%
III		3	5AW	3WD	1.04	26%
IV	3	NA	NA	NA	0.36	9%
Total					4.01	100%

¹ Ratings based on lab results & field investigation. See Table 7 for class descriptions

² See appendix C for Capability descriptions

³ Estimates based on lab results, field investigations and aerial photography

Excess water during the wet months, and soil moisture deficits in the growing season were identified as the most extensive and severe limitations to agricultural capability on the Subject Property. Undesirable soil structure was considered to be an extensive, but less severe limitation.

AC Unit 1 (including Soil Unit I) accounts for +/- 15% (0.59 ha) of land on the Subject Property. This area was rated at Class 5 (unimproved) due to a soil

moisture deficit in the summer, and excess water conditions in the spring, fall and winter. This area is improvable to Class 3 with the addition of irrigation in the warm months and water control such as ditching and/or artificial drainage for the spring, fall and winter months. Irrigation is expected to raise the soil moisture deficit ("A") limitations to Class 1 throughout this agricultural capability unit. A root restricting layer and low perviousness were consistent across the property and represent a soil structure limitation of Class 3 that may be improvable by removal of poor quality admixed fill, decompaction of the underlying clay layer and replacement of top soil to a depth of at least 0.75m.

AC Unit 2 (including Soil Units II & III) accounts for +/-76% (3.06 ha) of land on the property. This area was rated at Class 5 (unimproved) due to a soil moisture deficit in the summer, and excess water conditions in the spring, fall and winter. This area is improvable to Class 3 with the addition of irrigation in the warm months and water control such as ditching and/or artificial drainage for the spring, fall and winter months. Because of the coarse texture of the soils in this agricultural capability unit, irrigation is only expected to raise the "A" limitation to Class 3

The remaining +/-9% (0.36 ha) of the Site, which has been mapped as AC Unit 3, occupies land in the southern area. This area has been rated at Class "AN" for anthropogenic alterations and is not considered to be available for agriculture due to the existence of a home, yard, driveway and outbuildings.

5.2 Comparison of BC Government and On-Site Inspection Ratings

The unimproved and improved agricultural capability ratings applied to the Subject Properties based on the on-site inspection were somewhat consistent with the ratings ascribed by the MOE mapping, as summarized below (See also Tables 5 and 6; and Appendix A, Figure 9).

The on-site agricultural capability ratings revealed a greater extent of excess water limitation ("W") on the property although it was not as severe as depicted by the MOE mapping. As well, the published mapping showed that all areas of the Subject Property had an unimproved rating of 3A to 4A. By contrast, the on-site assessment identified persistent soil moisture deficiencies with an unimproved rating of 5A across the property. The improved ratings increased to Class 1 (northwest corner) to 3A (south and central area) with irrigation.

In summary, the on-site inspection agricultural capability ratings were somewhat consistent with both MOE climatic and overall agricultural capability ratings. There was a greater variability in the unimproved ratings mapped by the MoE, while the on-site inspection results were more homogeneous ascribing the same unimproved and improved ratings to 76% of the Subject Property. The homogeneity noted is likely due to the significant modification that has occurred to the surface soils across the site.

5.3 Feasibility of Improvements

All improvements provided are theoretical in nature and based on best management practices as outlined the MOE Manual 1. These improvements are based on an assumption of land that is generally free of waste and contaminants. This assumed condition is not represented on the Subject Property.

The Subject Property has undergone historic improvements (see section 2.2.2). However, significant remaining rehabilitation is needed for the property to be suitable for agriculture (see section 2.2.3). The cost of the remaining improvements and rehabilitation that are necessary to prepare this property for agricultural use are not likely to be feasible. Furthermore, the required improvements (ie. Removal of wood waste material and replacement of the topsoil layer across 91% of the Subject Property) greatly exceed what would be considered "typical farm improvement practices", both in terms of the scope and costs for this work. The recovery of the improvement expenses by an agricultural production operation would be unlikely and is expected to be economically prohibitive.

The proposed future improvements based on MoE Manual 1 BMPs include supplemental moisture (irrigation) during the dry months and water control/drainage enhancements for excess moisture (ditching and/or artificial drainage). The results of this assessment suggest that these improvements would be feasible for AC Unit 1 and 2 which accounts for +/-91% (3.65 ha) of the Subject Property. The agricultural capability rating on AC 1 which accounts for +/-15% (0.59 ha) of the Subject Property is expected to improve from Class 5AW to Class 3WAD. The agricultural capability rating on AC 2 which accounts for +/-76% (3.06 ha) of the Subject Property is expected to improve from Class 5AW to Class 3WD. Improvements are not considered to be feasible for the remaining +/-6% (0.6 ha) of the Subject Property. This area is in AC Unit 3 which is unavailable due to existing residential structure and out buildings.

6 Agricultural Suitability

Agricultural suitability is related to agricultural capability, but involves the interpretation of a wider variety of factors as they relate to the potential for specific uses on a given property. While agricultural capability is based on physical features and measurable parameters, agricultural suitability assessments include a range of site conditions and external influences. The following factors were considered in assessing the agricultural suitability of the Subject Property:

- Feasibility of improvements;
- Availability of additional good quality topsoil;
- Overall size of the Subject Property;
- Location and context of the Subject Property (proximity to urban/suburban/rural land use and zoning);
- Land use on subject property – historical, current and future plans;
- Land use in surrounding area – historical, current and future plans;
- Diversifications, innovations and improvements to date;
- MoE agricultural capability ratings (at 1:20,000 mapping scale); and
- Agricultural capability ratings as determined by this assessment (at +/- 1:3,000 mapping scale).

The suitability of the Subject Property for various agricultural purposes has been evaluated in terms of the factors listed above and has been summarized in Table 7, below:

TABLE 7: 982 Old Vernon Rd., Kelowna BC – Site Inspection: Agricultural Suitability

AC Unit	Area (ha)	% Total Area	Ag Capability Unimproved (Improved)	Suitability for Agriculture Activities
Soil Bound Agriculture				
1&2	3.65	91%	Class 5 (Class 3)	These Agricultural Capability Units represent all of the property outside of the home site. The topsoil layer on this portion of the property has been completely admixed by the mill practices and would require significant remediation to be used for soil bound agriculture (section 2.2.3 for more detail). If rehabilitation was feasible, this area would potentially be suitable for perennial forage and select crops. The nearby Kelowna Airport, Environment Canada weather station data indicates that this area of Kelowna is a frost pocket which has on average 34 more days per year with minimum temperatures below 0C, when compared with East Kelowna and Kelowna weather stations. The risk of crop damage or failure may be increased due to the excess water and fewer frost free days. However, it would not be feasible to rehabilitate this area for soil bound agriculture due to the prohibitive costs of such improvements.
3	0.36	9%	NA	NA
Intensive Soil Bound Livestock - Operations which depend, in whole, or in part, on growing their own feed for livestock production (eg. Beef cattle (cow, calf or feeder), dairy cows, sheep, goats, and other livestock at a commercial scale)				
1&2	3.65	91%	Class 5 (Class 3)	These Agricultural Capability Units represent all of the property outside of the home site. The topsoil layer on this portion of the property has been completely admixed by the mill practices and would require significant remediation to be used for the production of livestock feed. If rehabilitation was feasible, this area would potentially be suitable for perennial forage. However, it would not be feasible to rehabilitate this area for livestock feed/production due to the prohibitive costs of such improvements.
3	0.36	9%	NA	NA
Intensive Non-Soil Bound Livestock - Uses which do not rely on growing crops in soil to support the enterprise (eg. Beef feedlots, hog production and poultry ie. Eggs and meat birds)				
1&2	3.65	91%	Class 5 (Class 3)	The property is located in a rural/residential area and near to a residential subdivision. Conflicts regarding the odours, noise and traffic associated with an intensive feedlot operation may be an issue with neighbouring rural residential property owners. For access reasons and potential conflict with neighbouring property owners this site is not suitable for intensive non-soil bound livestock. However, it would not be feasible to rehabilitate this area for non-soil bound livestock due to the prohibitive costs of such improvements.
3	0.36	9%	NA	NA
Intensive Non-soil bound Horticultural Agriculture (eg. green houses and container nursery)				
1&2	3.65	91%	Class 5 (Class 3)	The site is largely level. After remediation this property could be made suitable for Non-soil bound Horticultural Agriculture operation. However, it would not be feasible to rehabilitate this area for non-soil bound horticulture due to the prohibitive costs of such improvements.
3	0.36	9%	NA	NA

7 Impact Analysis

The potential impacts associated with the industrial land use on the Subject Property on the local and regional agricultural context have been summarized in Table 8, below. One of the advantages of having the Subject Property rehabilitated for industrial use would be the opportunity to install buffers between the site and surrounding properties that are being used for agricultural activities.

TABLE 8: 982 Old Vernon Rd., Kelowna BC – Potential Impacts of Continuing Industrial Land Use

Area of Concern	Anticipated Impacts from Proposed Land Use	Comments
Industrial Land Use of Subject Property on Surrounding Lands	The Subject Property was the site of a saw mill operation for over 50 years (35+ years since inclusion in the ALR). Further industrial land use would require extensive rehabilitation and improvements to the property. Such improvements can be expected to have a positive impact on the surrounding properties.	The Subject Property is located in a rural/residential area and is generally surrounded by agricultural properties with apparent light commercial/industrial uses on the neighbouring property to the east. There is a nearby small lot residential subdivision.
Regional and Local Agricultural Capacity	The Subject Property is not contributing to regional or local Agricultural Capacity. The property has not been used for agriculture since the 1950's. A non agricultural use on this property will not negatively impact the local Agricultural Capacity.	The site has not been used for agricultural purposes for over 50 years. There will be no impacts on local capacity if non-agricultural uses are permitted at this site.
Surrounding Agricultural Operations	Nearby agricultural operations include intensive soil bound agriculture to the north and south and hay fields to the west. A remediated industrial site including perimeter buffers would be an improvement for all neighbouring properties.	The property operated as an industrial site for about 50 years (35+ years since inclusion in the ALR) at this location. Clean up and redevelopment for further industrial use will require removal of unsightly and potentially deleterious wood waste and allow for the inclusion of buffers to be added to the site to ALC specifications. The buffering measures to be implemented will mitigate the negative impacts of future land uses on the neighbouring agricultural operations and properties.
Precedent of Industrial Land Use for Triggering Future Applications	The Subject Property shares commonalities with the neighbouring site to the east, as both were part of the original sawmill operation. The Subject Property was included in the ALR as an operating mill and operated for another 30 years at this location. Permitted non-farm land-use on the subject property may serve as a precedent for application on the property directly adjacent to the east (the remainder of the mill site). Beyond those sites there is no clear, likely precedent as all remaining surrounding lands are apparently used primarily for agriculture, or are not in the ALR	

8 Summary and Conclusions

8.1 Subject Property

The Subject Property has been used as a saw mill for over 50 years (35+ years since inclusion in the ALR). There has been no agricultural land use on the Subject Property in that time. Despite significant and costly rehabilitation efforts to the property, it remains in a state that is not suitable for agriculture. The estimated costs to complete the rehabilitation and make the Subject Property suitable for agricultural production are economically unfeasible when compared to the expected returns from an agricultural production business. In addition, such rehabilitation would fall well beyond the scope and cost of typical farm improvements.

Land use in the vicinity of the Subject Property is primarily rural / residential with agriculture being actively practised on the adjacent properties to the north, south and west of the property. The remainder of the original saw mill operation is located on the property directly adjacent to the east and is apparently being used for industrial activities, with no apparent agricultural use. While the majority of the property directly adjacent to the west is being used for hay, it is also being used to park heavy equipment. Across Old Vernon Rd. to the south is an agricultural property, approximately half of which is used to produce specialty market items (eg. Sauces, jams, pickled vegetables). The other half is not currently being used for any agricultural or industrial activities.

8.2 Soils and Agricultural Capability

This assessment rated the soil moisture deficiencies at Class 5A (unimproved) for the entire Subject Property. The improved ratings for soil moisture on +/-91% of the Subject Property, based on the addition of irrigation, ranged from Class 3A to 1. The remaining 9% of the lot is unavailable for agricultural use. Variations in the soil moisture deficiency across the Subject Property were related to site-specific soil conditions (eg. soil texture) and anticipated responses to supplemental moisture;

This assessment rated undesirable soil structure at Class 3D for +/-91% of the Subject Property and was found to be a minor limitation on throughout the site. The remaining 9% of the lot is unavailable for agricultural use;

This assessment found that excess water was a limitation with a 4W (unimproved) rating on 91% of the Subject Property. The improved ratings for this portion of the property are 3W, based on ditching and/or installing artificial drainage to control the water in wetter months. The remaining 9% of the lot is unavailable for agricultural use;

The proposed improvements on the Subject Property included supplemental moisture (irrigation) during the dry months, as well as enhanced surface and soil profile drainage for the wet months. The results of this assessment suggest that these

improvements would be feasible for +/-91% (3.65 ha) of the Subject Property, where the agricultural capability ratings are expected to improve from Class 5 to Class 3;

The proposed improvements are not considered to be feasible for the remaining +/-9% (0.36 ha) of the Subject Property. This area is unavailable for agriculture due to existing residential structures and out buildings;

Under the current circumstances, and considering the cost and scope of required improvements for the Subject Property, no suitable agricultural uses have been identified for the Subject Property. The investments to date, combined with the high cost of removing wood waste and completing further assessments preclude the possibility of non-soil bound uses such as horticultural agricultural or an intensive livestock operation.

8.3 Proposed Project

The landowners are exploring a variety of potential future land uses, including the possibility of returning to an industrial use on the Subject Property. A specific activity has not been designated at this time. However, due to the significant scope and onerous costs of site rehabilitation still required agricultural production is not considered to be a feasible option.

8.4 Conclusion

The Subject Property is located in a rural/residential area of the City of Kelowna; it was operated historically as a saw mill until 2005, and has little to no current use on 91% of the property. While significant site rehabilitation and improvements could theoretically make the Subject Property suitable for agricultural production; the scope and costs of this work are well beyond what is generally considered to be typical farm improvement practices. Therefore, the rehabilitation of Subject Property for any agricultural purposes is not considered to be economically or practically feasible.

Generally speaking, inclusion of land that is improvable to class 3 into the ALR would be considered good practice; however, due to the historic industrial use of the Subject Property, rehabilitation of the Subject Property for agricultural use at the time of creation of the ALR (1974-1976) may already have well exceeded the potential returns from an agricultural operation. These conditions have been compounded to present day further limiting the land use options available to the current Landowners.

9 References

BC Ministry of Agriculture and Food and Ministry of Environment, April 1983. Land Capability for Agriculture in British Columbia. MOE Manual 1. Surveys and Resource Mapping Branch and Soils Branch: Kelowna, BC

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City of Kelowna, City of Kelowna Map Viewer (online),
http://www.kelowna.ca/website/ikelowna_map_viewer/viewer.cfm , Kelowna, BC

10 Limitations

I, Matthew Davidson certify that I supervised and carried out the work as described in this report. The report is based upon and limited by circumstances and conditions referred to throughout the report and upon information available at the time of the site investigation. I have exercised reasonable skill, care and diligence to assess the information acquired during the preparation of this report. I believe this information is accurate but cannot guarantee or warrant its accuracy or completeness. Information provided by others was believed to be accurate but cannot be guaranteed.

The information presented in this report was acquired, compiled and interpreted exclusively for the purposes described in this report. I do not accept any responsibility for the use of this report, in whole or in part, for any purpose other than intended or to any third party for any use whatsoever. This report is valid for one year only after the date of production.

Respectfully Submitted,



Matthew Davidson, P.Ag.
Senior Environmental Scientist
Valhalla Environmental Consulting Inc.

Historic Land Use Additional Detail

The Subject Property was included in the ALR when the reserve was established (1974-1976). Encroachment of mill operations in the form of wood waste occurred after 1976, as indicated by historic aerial photography. Known approved expansion of the mill operations onto the Subject Property occurred in 1985 and 2000.

The Subject Property has reportedly been previously used by Better Earth Products a composting company. The owner, at that time, of Better Earth (Del Kohnke) reported operating from 2008 to 2011 on the Subject Property. The initial operation by this individual and by extension, this company is referred to in section 2.2.1 of the report as a wood waste contractor, who was screening and trucking the waste to Tolko Industries in Armstrong for use in their cogeneration plant. Due to contamination issues with the wood waste (such as paint) Tolko would no longer receive the product so Mr. Kohnke explored compost opportunities for the remaining wood waste material with his existing composting business Better Earth. As some of the material had naturally composted it was initially sold directly to market, however with little success. Introduction of green nitrogen sources was applied but did not produce a saleable product. The operation of Better Earth on the Subject Property became economically prohibitive and was not viewed as a success by the owner (pers.comm. DK).

Appendix A – Maps and Figures
982 Old Vernon Rd., Kelowna, BC

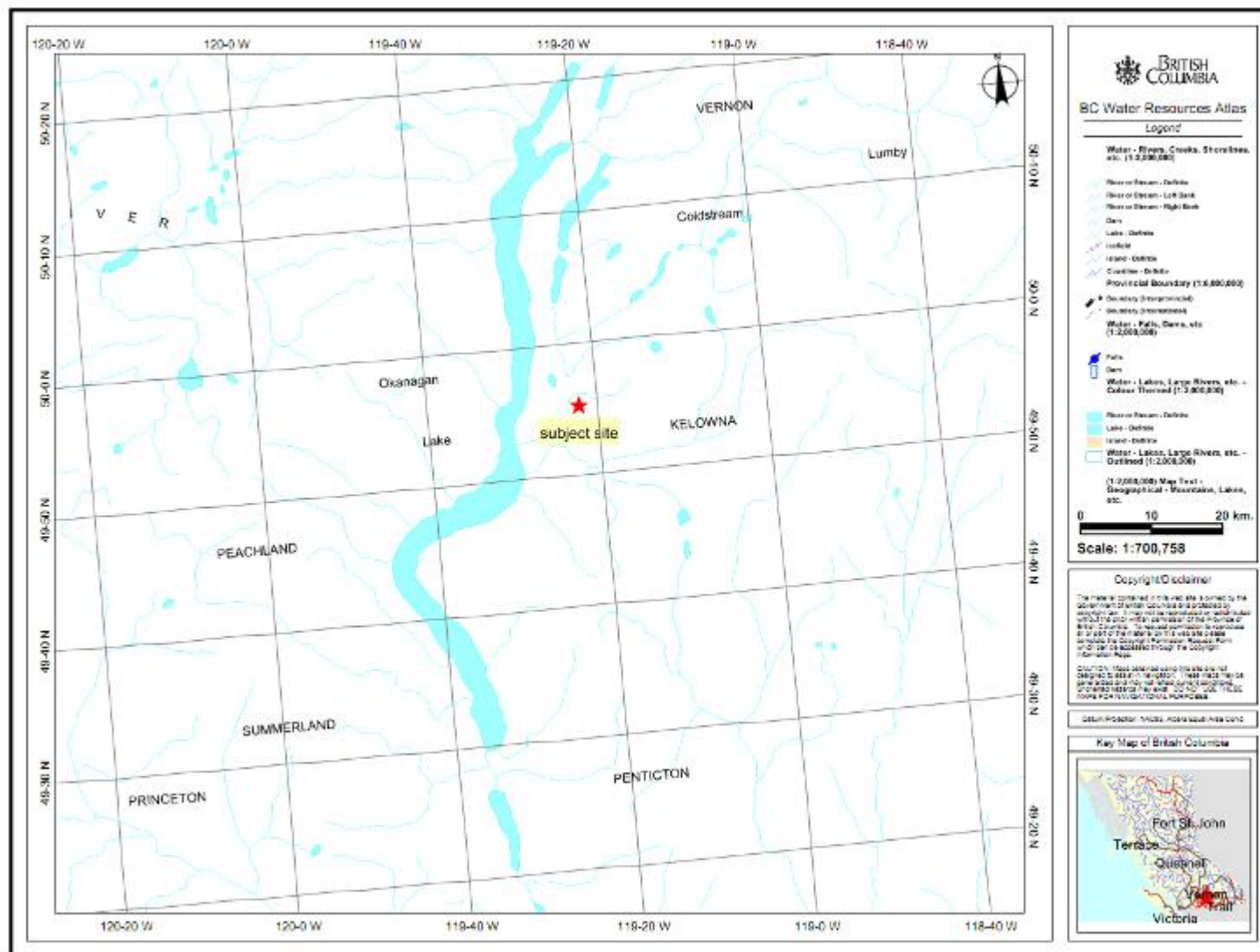


Figure 1: Regional Scale Location Map, 982 Old Vernon Rd., Kelowna BC (Not to scale for discussion purposes only)

Source: http://www.env.gov.bc.ca/wsd/data_searches/wrbc/index.html



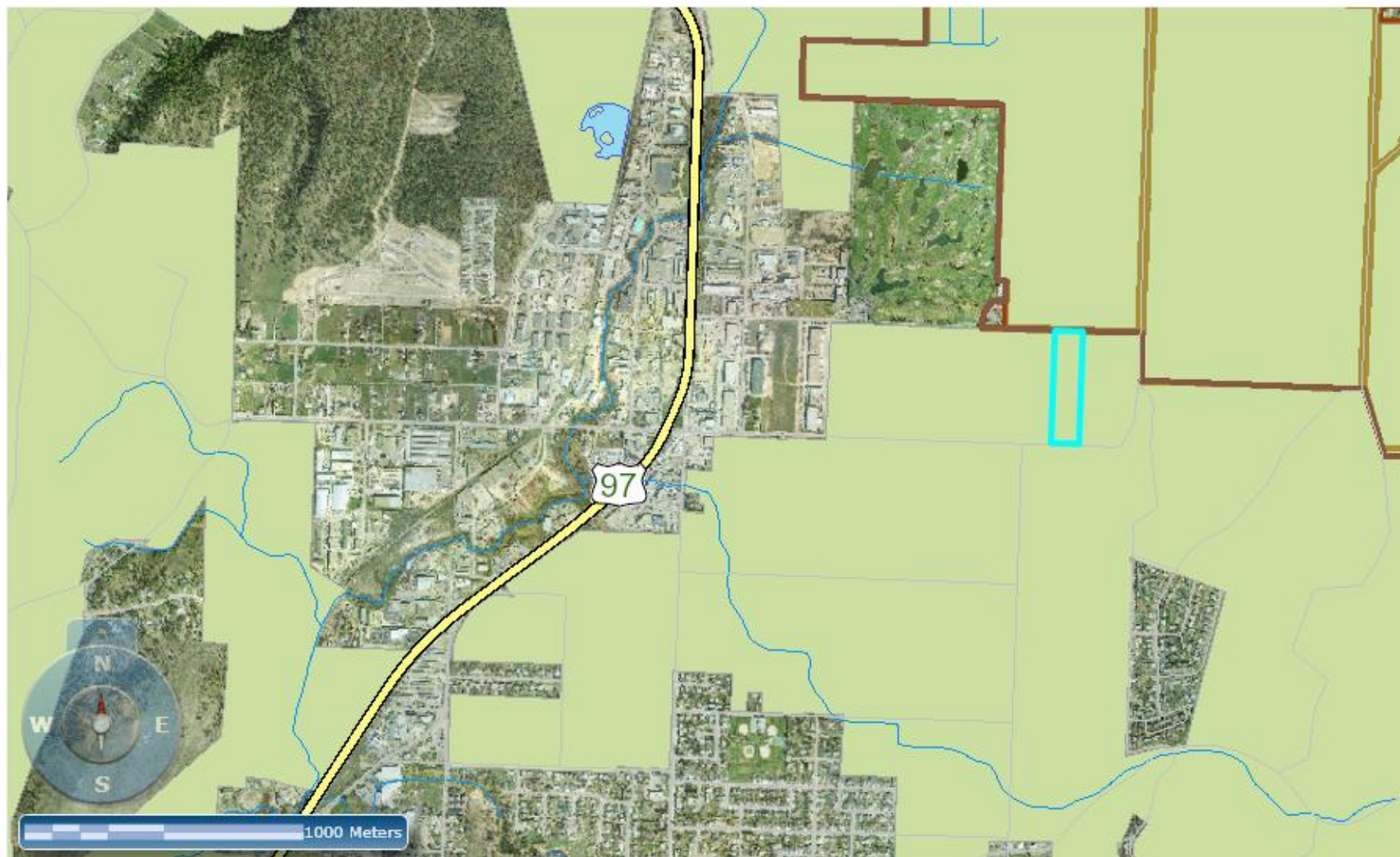


Figure 3: ALR, 982 Old Vernon Rd., Kelowna, BC

Source: RDCO Mapping - Accessed Nov. 15 2012
http://www.rdcogis.com/GIS_App/RDCO_GIS_App.html

site

ALR



**Figure 4: Contours, 982 Old Vernon Rd., Kelowna BC,
1m contour interval**

Source: City of Kelowna - Accessed Nov 15 2012
http://www.kelowna.ca/website/ikelowna_map_viewer/viewer.cfm

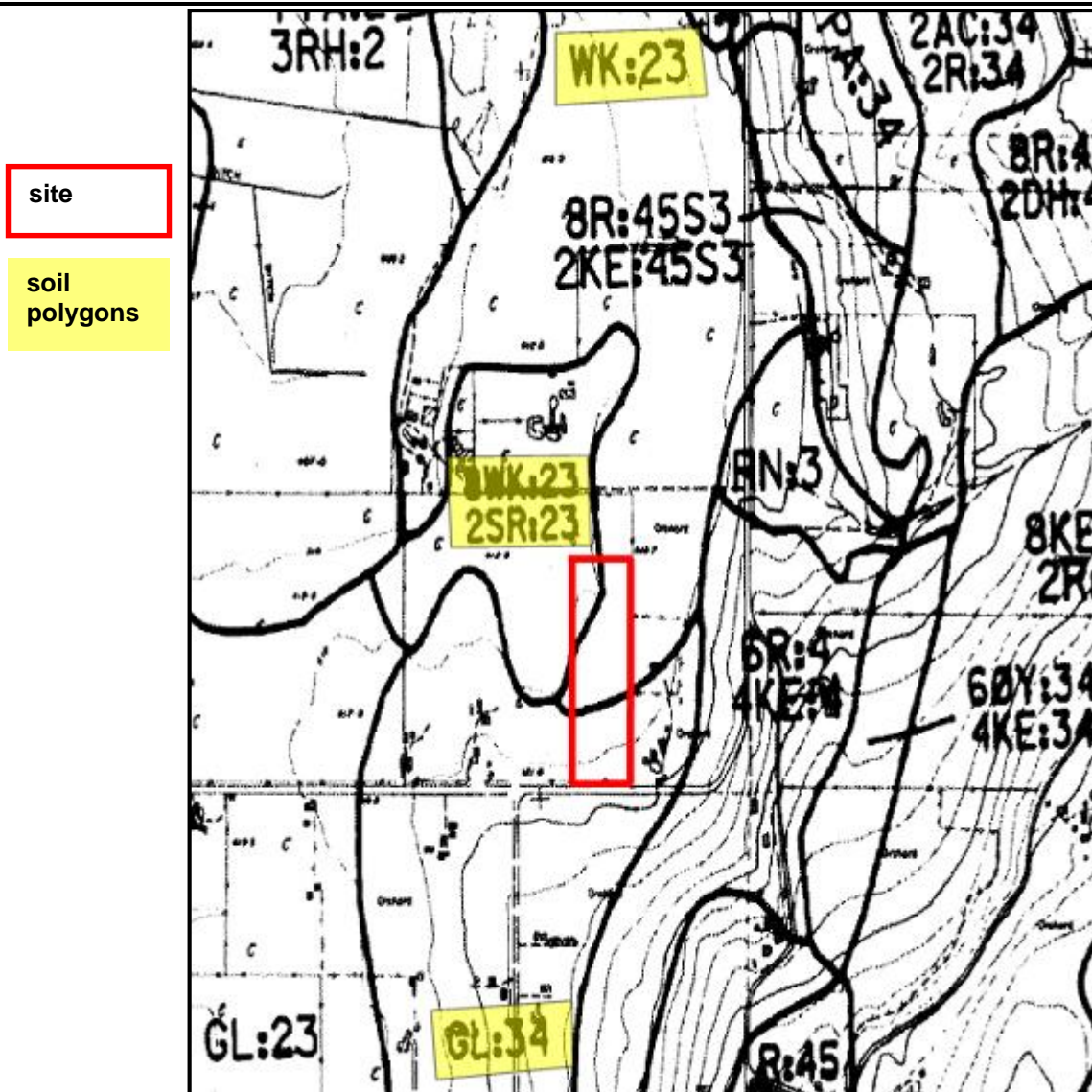


Figure 5: Soils Mapping, 982 Old Vernon Rd., Kelowna, BC,
5m contour interval

Source: BC MOE; Soil Survey Report No. 52 (1982); Mapsheet 82E.094 @1:20,000
(1987)

WK	WESTBANK	nearly level to strongly sloping stratified glaciolacustrine sediments	100 cm or more of clay, clay loam or silty clay	moderately well	Orthic Gray Luvisol
SR	SUMMERLAND	nearly level to strongly sloping fluvial veneer over glaciolacustrine sediments	10 to 100 cm of silty clay loam grading to clay loam	dominantly poor, ranging to imperfect; fluctuating groundwater table or seepage, subject to flooding	Orthic Humic Gleysol: calcareous and saline phases
GL	GLENMORE	nearly level to moderately sloping stratified glaciolacustrine sediments	100 cm or more of silt loam, silty clay loam or clay loam	well to moderately well	Eluvial Dark Brown

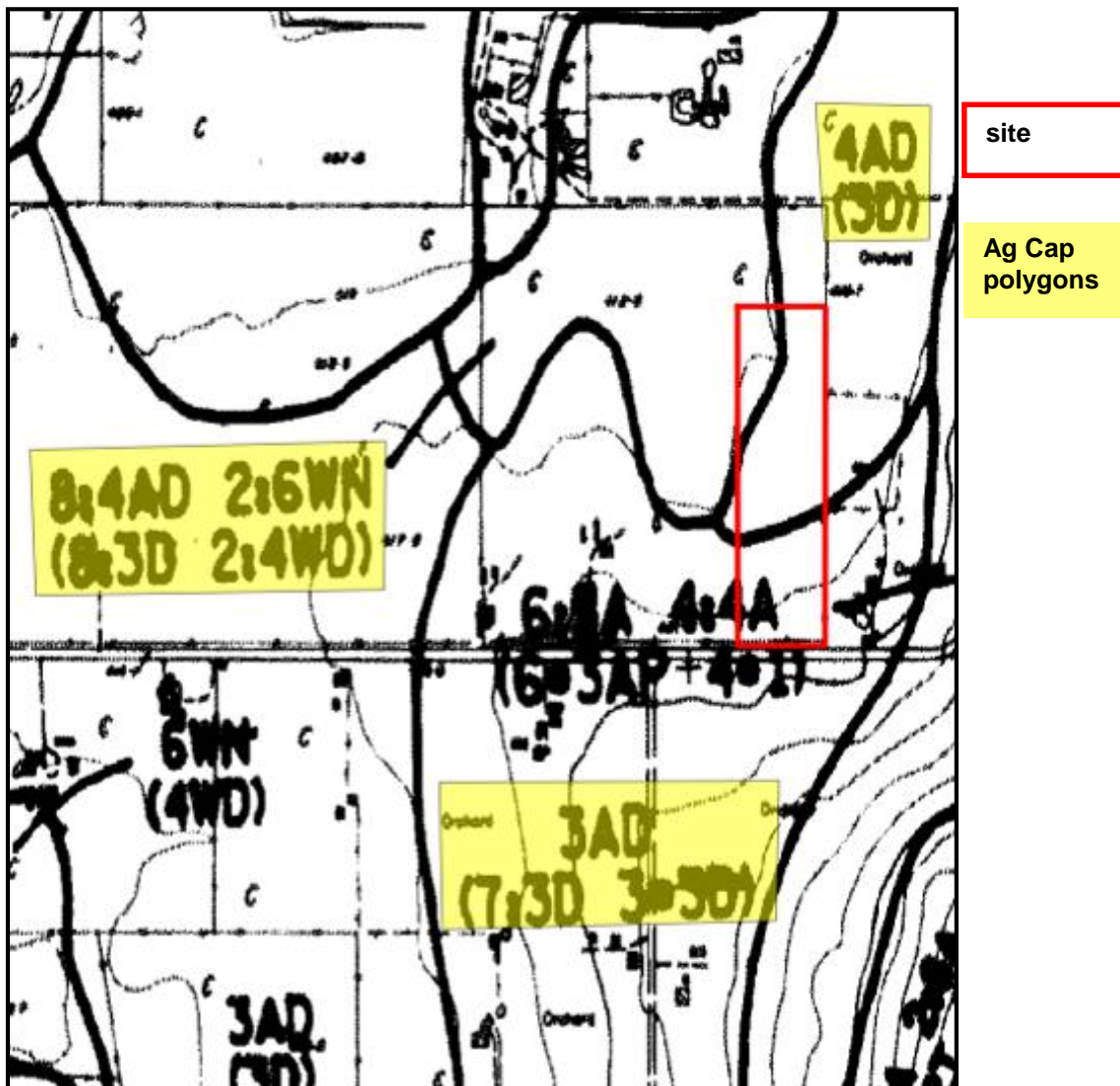


Figure 6: Agricultural Capability Mapping, 982 Old Vernon Rd., Kelowna, BC
Source: BC MOE; Mapsheet 82E.094 @1:20,000 (1987)

CAPABILITY CLASSIFICATIONS

5AP - Unimproved Rating

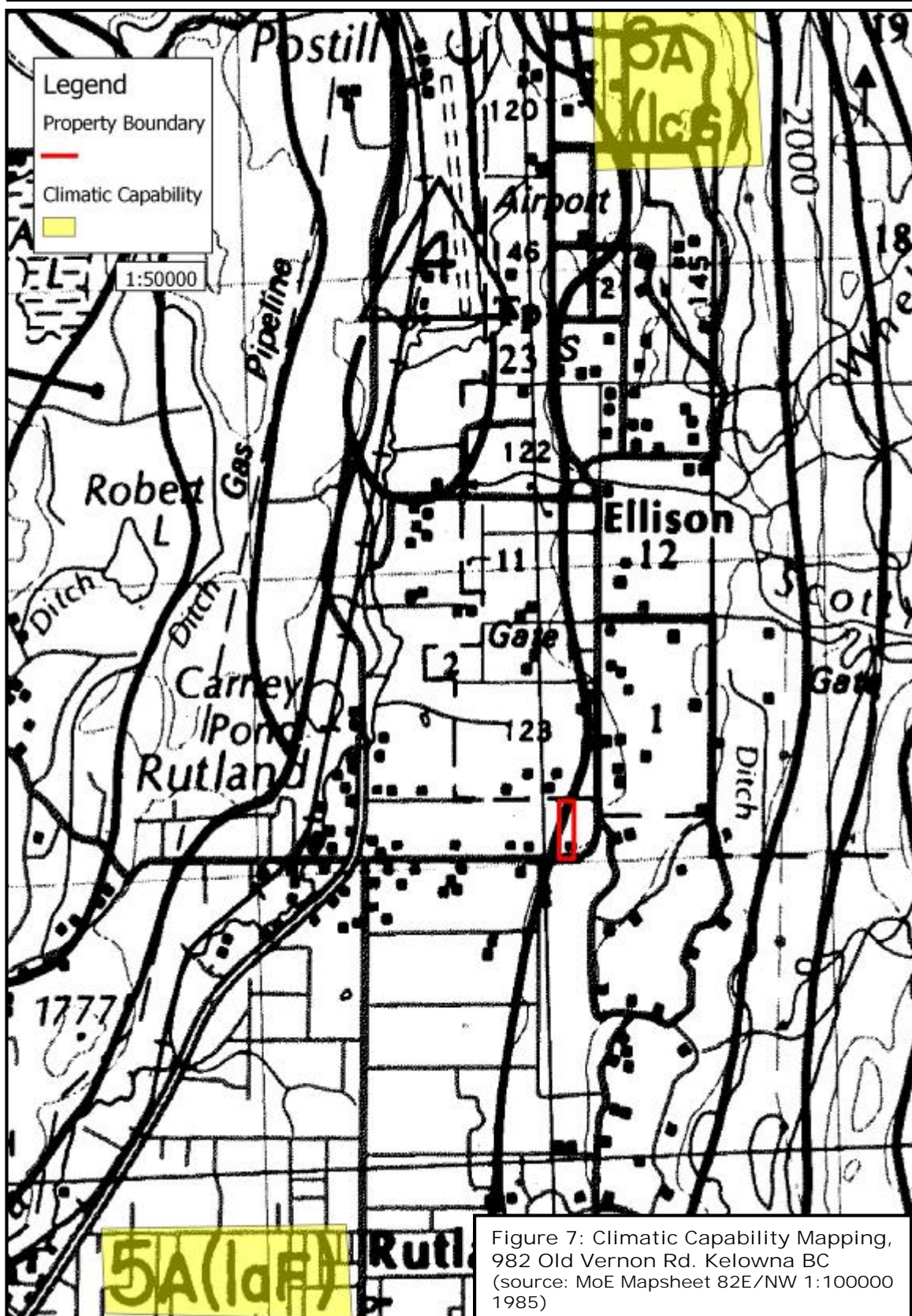
(3AP) - Improved Rating

*The asterisk is used with the Modified Land Capability Classification for Tree Fruits and Grapes.

It indicates the modified topography and/or stoniness classes have been used.

CLASS RATINGS

1. Land in this class either has no or only very slight limitations that restrict its use for the production of common agricultural crops.
2. Land in this class has minor limitations that require good ongoing management practices or slightly restrict the range of crops, or both.
3. Land in this class has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both.
4. Land in this class has limitations that require special management practices or severely restrict the range of crops, or both.
5. Land in this class has limitations that restrict its capability to producing perennial forage crops or other specially adapted crops.
6. Land in this class is nonarable but is capable of producing native and/or uncultivated perennial forage crops.
7. Land in this class has no capability for arable culture or sustained natural grazing.



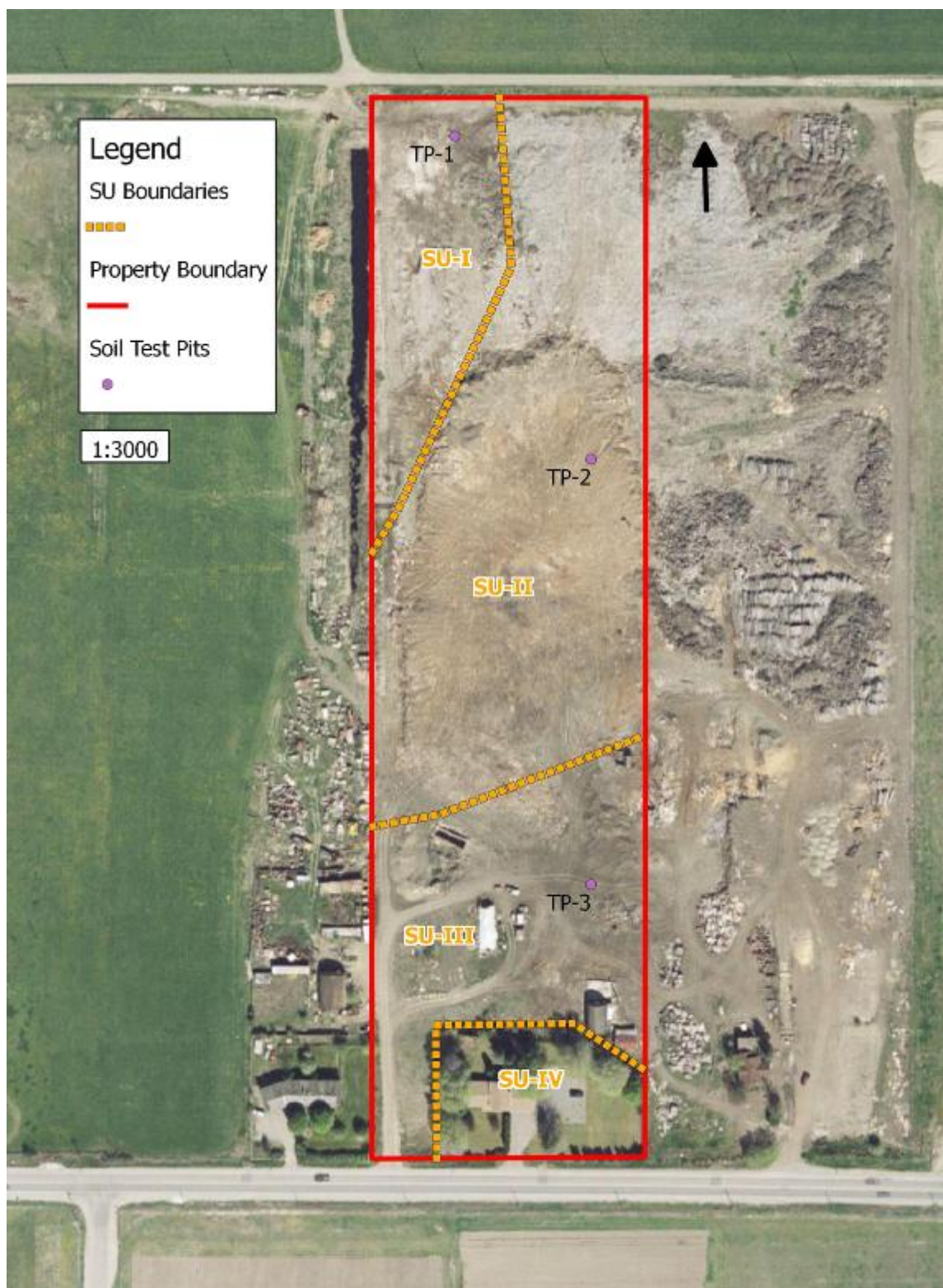


Figure 8: Soil Units and Test Pit Mapping, 982 Old Vernon Rd. Kelowna BC

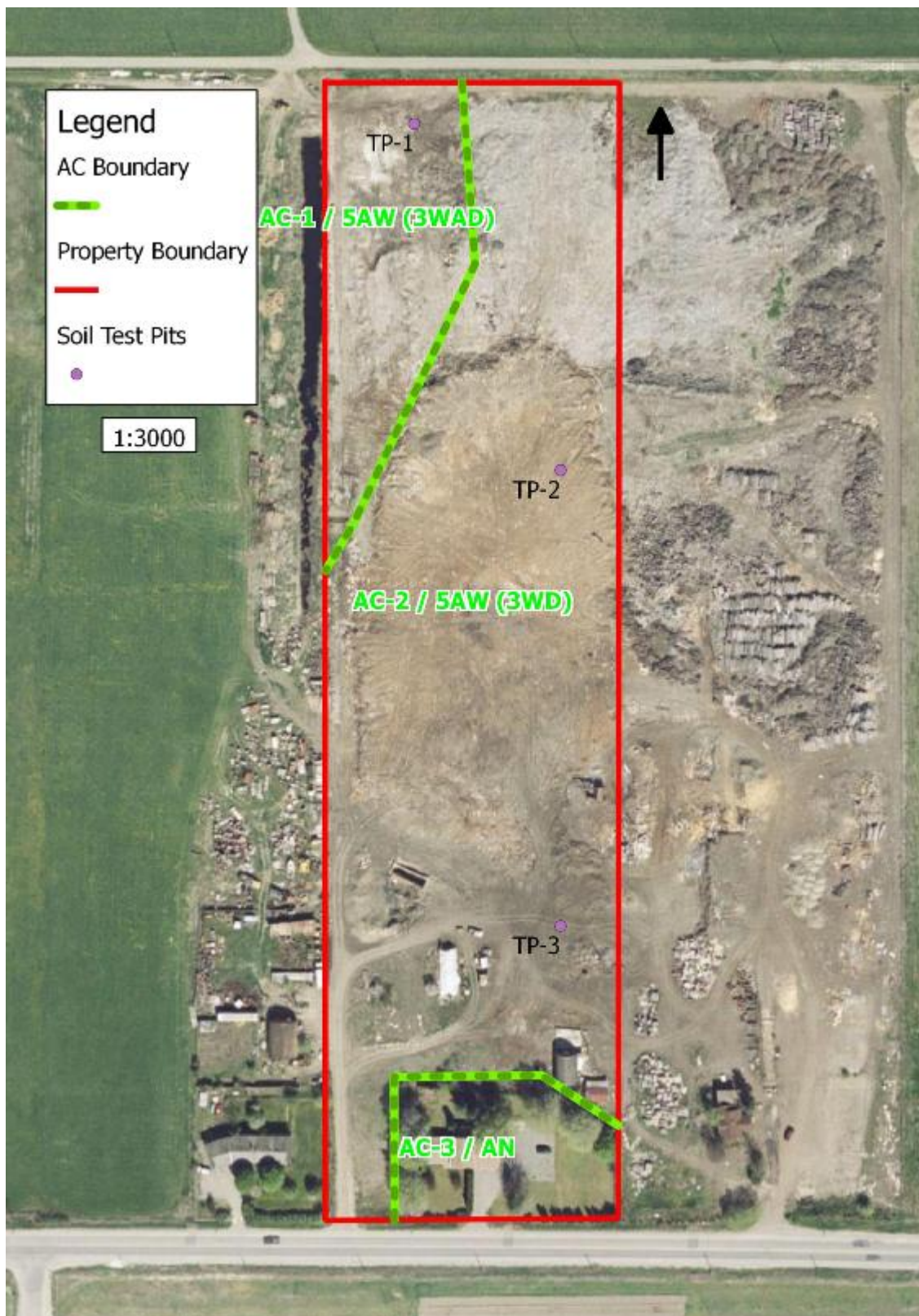


Figure 9: Agricultural Land Capability Mapping, 982 Old Vernon Rd., Kelowna BC

CITY OF KELOWNA
BYLAW NO. 11426
TA17-0009 – Multiple Dwelling Housing Amendments

A bylaw to amend the "City of Kelowna Zoning Bylaw No. 8000".

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. THAT **Section 2 – Interpretation, 2.3 General Definitions "MULTIPLE DWELLING HOUSING"** be deleted in its entirety that reads:

"MULTIPLE DWELLING HOUSING means housing on a single **lot** other than a **bareland strata lot** that contains five or more **dwelling** units."

And replacing it with:

"MULTIPLE DWELLING HOUSING means housing on a single **lot** other than a **bareland strata lot** that contains three or more **dwelling** units."

2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 12th day of June, 2017.

Considered at a Public Hearing on the 25th day of July, 2017.

Read a second and third time by the Municipal Council this 25th day of July, 2017.

Approved under the Transportation Act this 27th day of July, 2017.

Audrie Henry
(Approving Officer-Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

CITY OF KELOWNA
BYLAW NO. 11427
Z17-0009 – 2673 Gore Street

A bylaw to amend the "City of Kelowna Zoning Bylaw No. 8000".

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 11, District Lot 14, ODYD, Plan 7927 located on Gore Street, Kelowna, B.C., from the RU6 – Two Dwelling Housing zone to the RM5 – Medium Density Multiple Housing zone.
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 12th day of June, 2017.

Considered at a Public Hearing on the 25th day of July, 2017.

Read a second and third time by the Municipal Council this 25th day of July, 2017.

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

Report to Council



Date: October 30, 2017
File: 1220-02
To: City Manager
From: Ross Soward, Planner Specialist
Subject: 1745 Chapman Place - Amend Revitalization Tax Exemption Agreement

Recommendation:

THAT Council amend the Revitalization Tax Exemption Agreement RTE16-0006 with Ki-Low-Na Friendship Society for Strata Lots 1 through 86 of Strata Plan EPS3899, District Lot 139, Osoyoos Division Yale District at 1745 Chapman Place, Kelowna, BC, in the form attached to the report from the Planner Specialist, dated October 30, 2017;

AND FURTHER THAT the Mayor and City Clerk be authorized to execute all documents necessary to complete this transaction.

Purpose:

To amend the Revitalization Tax Exemption (RTE) Agreement with Ki-Low-Na Friendship Society for purpose-built rental housing in accordance with Revitalization Tax Exemption Program Bylaw No. 9561.

Background:

On October 24, 2016 Council approved a 10-year Revitalization Tax Exemption Agreement with Ki-Low-Na Friendship Society for rental housing in accordance with Revitalization Tax Exemption Program Bylaw No. 9561. The 86-unit affordable rental housing project at 1745 Chapman Place is a partnership with BC Housing. The partnership with BC Housing requires that the units be stratified to allow for BC Housing to purchase equity in the rental housing project.

However, the approach of stratifying units to facilitate BC Housing equity was interpreted by the British Columbia Assessment Authority (BCAA) as being in conflict with the City of Kelowna's Revitalization Tax Exemption Bylaw and therefore the exemption was not provided in 2017. As an interim measure

City of Kelowna provided a credit of \$17,000 to Ki-Low-Na Friendship Society from 2017 tax revenue in lieu of the tax exemption for 2017.

On September 18 2017, council approved amendments to the City's Revitalization Tax Exemption Bylaw to update the definition of purpose-built rental housing, allowing for stratification in cases where an operating agreement with BC Housing is in place. However, the Tax Exemption Agreement with Ki-Low-Na Friendship Society requires an amendment to include the legal description of the property after the stratification of the building. Also, the updated term of exemption (2018-2026) is included in the new amended agreement (Attachment 1). All 86 units will continue to operate as affordable rental housing as per the purpose-built rental housing agreement that is in place. The amended agreement (Attachment 1) includes the continuing portions of the existing agreement signed in October 2016 and will serve as the complete agreement between the City of Kelowna and Ki-Low-Na Friendship Society moving forward.

Internal Circulation:

Divisional Director, Financial Services
Divisional Director, Community Planning & Real Estate
Manager, Long Range Policy Planning
Financial Analyst

Legal/Statutory Authority:

Revitalization Tax Exemption Program Bylaw No. 9561, 2006
Community Charter, Division, Section 226

Legal/Statutory Procedural Requirements:

The Revitalization Tax Exemption Bylaw No. 9561 supports municipal tax incentives for purpose-built rental housing when the vacancy rate for rental housing is at three per cent or lower.

Existing Policy:

Official Community Plan Bylaw No. 10500

Revitalization Tax Exemption Program Bylaw No. 9561 Policy 5.1.3

Submitted by: R. Soward, Planner Specialist

Approved for inclusion: J. Moore, Manager Long Range Policy & Planning

Attachments:

1. 1745 Chapman Place Revitalization Tax Exemption Amended Agreement

BL10566, BL10674 & BL11457 amended SCHEDULE "B" and BL10974 replaced SCHEDULE "B":

SCHEDULE "B"
Revitalization Tax Exemption Agreement

THIS AGREEMENT dated for reference the 30th day of October, 2017 is

BETWEEN:

Ki-Low-Na Friendship Society
442 Leon Avenue
Kelowna, B.C
V1Y 6J3
(the "Lessee")

AND:

CITY OF KELOWNA
1435 Water Street,
Kelowna, B.C.
V1Y 1J4

(the "City")

GIVEN THAT:

- A. The City is the registered owner in fee simple of lands in the City of Kelowna at 1745 Chapman Place described as, Strata Lots 1 through 86 of Strata Plan EPS3899, District Lot 139, Osoyoos Division Yale District, (the "Parcel");
- B. Council has established a revitalization tax exemption program and has included within the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561, as amended, the designation of areas which include the Parcel as a revitalization area; and
- C. The City and the Lessee entered into a revitalization tax exemption agreement dated October 14, 2016 (the "Existing Agreement") for the construction of new improvements *[or alter existing improvements]* on the Parcel as described in Appendix "A" attached to and forming part of this agreement (the "Project") and the parties have agreed to amend the Existing Agreement to reflect the provisions of City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561, as amended. For clarity, the continuing provisions of the Existing Agreement have been included in this agreement so that this agreement is the complete agreement between the parties;

THIS AGREEMENT is evidence that in consideration of the promises exchanged below, the Lessee and the City covenant and agree each with the other as follows:

- 1. **The Project** – the Lessee will use its best efforts to ensure that the Project is constructed, maintained, operated and used in a fashion that will be consistent with and will foster the objectives of the revitalization tax exemption program, as outlined in the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561. Without limiting the generality of the foregoing, the Lessee covenants to use its best efforts to ensure that:
 - a. the Project will include constructing a four storey 86 unit wood frame building with underground parking and bicycle stalls / storage for the residents;
 - b. the Project will have a mix of apartment types, varying from studios to three bedrooms;

- c. the Lessee will permanently operate the housing development on a non-profit affordable rental basis.
2. **Operation and Maintenance of the Project** – throughout the term of this agreement, the Lessee shall operate, repair and maintain the Project and will keep the Project in a state of good repair as a prudent Lessee would do.
3. **Revitalization Amount** – In this agreement, “**Revitalization Amount**” means the municipal portion of property tax calculated in relation to the increase in the assessed value of improvements on the Parcel resulting from the construction of the Project as described in section 1;
4. **Revitalization Tax Exemption** – subject to fulfilment of the conditions set out in this agreement and in “City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561”, the City shall issue a revitalization tax exemption certificate (the “Tax Exemption Certificate”) to the British Columbia Assessment Authority entitling the Lessee to a property tax exemption in respect of the property taxes due (not including local service taxes) in relation to the Revitalization Amount on the Parcel (the “Tax Exemption”) for the calendar year(s) set out in this agreement.
5. **Conditions** – the following conditions shall be fulfilled before the City will issue a Tax Exemption Certificate to the Lessee in respect of the Project:
 - a. The Lessee must have obtained a building permit from the City for the Project on May 19, 2015;
 - b. The Lessee must complete construction of the Project in a good and workmanlike fashion and in strict compliance with the building permit and the plans and specifications attached hereto as Appendix “A” and the Project must be officially opened for use as *a purpose-built non-profit affordable rental housing development* (the “Exempt Use”) and for no other use, by no later than October 28, 2017;
 - c. The Lessee must submit a copy of the Occupancy Permit and this Agreement to the City of Kelowna’s Revenue Branch before the City will issue the Tax Exemption Certificate.
 - d. The completed Project must substantially satisfy the performance criteria set out in Appendix “B” hereto, as determined by the City’s Urban Planning Manager or designate, in their sole discretion, acting reasonably.
6. **Calculation of Calculation of Revitalization Tax Exemption** – the amount of the Tax Exemption shall be equal to
 - a) For Purpose-Built Rental Housing Projects throughout the City, 100% of the Revitalization Amount on the Parcel where the project is subject to a Housing Agreement (for up to 10 years) and is in compliance with the OCP Future Land Use designation as at May 30, 2011. A tax incentive for rental housing will only be considered when the vacancy rate is at or below 3%.
7. **Term of Tax Exemption** – provided the requirements of this agreement, and of the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561, are met the Tax Exemption shall be for the taxation years 2018 to 2026, inclusive.
8. **[deleted]**
9. **Compliance with Laws** – the Lessee shall construct the Project and, at all times during the term of the Tax Exemption or any renewal term, use and occupy the Parcel and the Project in compliance with all statutes, laws, regulations and orders of any authority having jurisdiction and, without limiting the

generality of the foregoing, all federal, provincial, or municipal laws or statutes or bylaws, including all the rules regulations policies guidelines criteria or the like made under or pursuant to any such laws.

10. **Effect of Stratification** – if the Lessee stratifies the Parcel under the Strata Property Act, then the Tax Exemption shall be prorated among the strata lots in accordance with the unit entitlement of each strata lot for:

- a. the current and each subsequent tax year during the currency of this agreement if the strata plan is accepted for registration at the Land Title Office before May 1; or
- b. for the next calendar year and each subsequent tax year during the currency of this agreement if the strata plan is accepted for registration at the Land Title Office after May 1;

so long as, if the Project is the subject of an operating agreement between the Lessee and the Provincial Rental Housing Corporation, the Lessee is in compliance with the operating agreement. The Lessee agrees to provide written confirmation to the City regarding the Lessee's compliance with the said operating agreement, satisfactory to the City, upon the City's reasonable inquiry.

11. **Cancellation** – the City may in its sole discretion cancel the Tax Exemption Certificate at any time:

- a. on the written request of the Lessee; or
- b. effective immediately upon delivery of a notice of cancellation to the Lessee if at any time any of the conditions in the Tax Exemption Certificate are not met.
- c. If the Lessee is subject to an operating agreement with the Provincial Rental Housing Corporation and is not in compliance with the operating agreement.

If such cancellation occurs, the Lessee of the Parcel for which the Tax Exemption Certificate was issued will remit to the City an amount equal to the value of any Tax Exemption received after the cancellation of the Tax Exemption Certificate.

12. **No Refund** – for greater certainty, under no circumstances will the Lessee be entitled under the City's revitalization tax exemption program to any cash credit, any carry forward tax exemption credit or any refund for any property taxes paid.

13. **Notices** – any notice or other writing required or permitted to be given hereunder or for the purposes hereof to any party shall be sufficiently given if delivered by hand or posted on the Parcel, or if sent by prepaid registered mail (Express Post) or if transmitted by facsimile to such party:

- a. in the case of a notice to the City, at:

THE CITY OF KELOWNA
1435 Water Street,
Kelowna, B.C.
V1Y 1J4

Attention: Ross Soward
Phone: 250-469-8937

- b. in the case of a notice to the Lessee, at:

Ki-Low-Na Friendship Society
442 Leon Avenue
Kelowna, B.C.

V1Y 6J3

Attention: Tina Larouche 250 763-4905

Or at such other address as the party to whom such notice or other writing is to be given shall have last notified the party giving the same.

14. **No Assignment** – the Lessee shall not assign its interest in this agreement except to a subsequent owner in fee simple or lessee of the Parcel.
15. **Severance** – if any portion of this agreement is held invalid by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of this agreement.
16. **Interpretation** – wherever the singular or masculine is used in this agreement, the same shall be construed as meaning the plural, the feminine or body corporate where the context or the parties thereto so require.
17. **Further Assurances** – the parties hereto shall execute and do all such further deeds, acts, things and assurances that may be reasonably required to carry out the intent of this agreement.
18. **Waiver** – waiver by the City of a default by the Lessee shall be in writing and shall not be deemed to be a waiver of any subsequent or other default.
19. **Powers Preserved** – this agreement does not:
 - a. Affect or limit the discretion, rights or powers of the City under any enactment or at common law, including in relation to the use or subdivision of the Parcel;
 - b. Affect or limit any enactment relating to the use or subdivision of the Parcel; or
 - c. Relieve the Lessee from complying with any enactment, including in relation to the use or subdivision of the Parcel and without limitation shall not confer directly or indirectly any exemption or right of set-off from development cost charges, connection charges, application fees, user fees or other rates, levies or charges payable under any bylaw of the City.
20. **Reference** – every reference to each party is deemed to include the heirs, executors, administrators, personal representatives, successors, assigns, servants, employees, agents, contractors, officers, licensees and invitees of such party, wherever the context so requires or allows.
21. **Enurement** – this agreement shall ensure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.
22. Any construction of a new improvement or alteration of an existing improvement undertaken prior to the application for a Revitalization Tax Exemption will not be eligible for consideration
23. The maximum Revitalization Tax Exemption authorized under City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561, as amended must not exceed the Revitalization Amount on the Parcel between:
 - a. the calendar year before the construction or alteration began, as outlined under Section 1 of this agreement; and
 - a. the calendar year in which the construction or alteration, as outlined under Section 1 of this agreement, is completed.

24. The Parcel's assessed value of improvements must not be reduced below the amount assessed in the calendar year prior to construction or alteration, as a result of the Revitalization Tax Exemption.
25. This agreement takes effect as of the date and year first above written. To the extent that there is any conflict between the terms and conditions of this agreement and those of the Existing Agreement, the terms and conditions of this agreement shall prevail.


IN WITNESS WHEREOF the parties hereto have executed this agreement as of the day and year first above written.

Executed by the CITY OF KELOWNA by
Its authorized signatories:

Mayor

City Clerk

Executed by Ki-Low- Na Friendship Society by its
Authorized signatories:


Name:

Name:
Appendix "A": Plans and Specifications
Appendix "B": Performance Criteria

BL11269 & BL11457 amended SCHEDULE "C"

Schedule "C"

Tax Exemption Certificate

In accordance with the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561 (the "Bylaw"), and in accordance with a Revitalization Tax Exemption Agreement dated for reference the 30th day of October, 2017 (the "Agreement") entered into between the City of Kelowna (the "City") and Ki-Low-Na Friendship Society (the "Lessee"), for Strata Lots 1 through 86 of Strata Plan EPS3899, District Lot 139, Osoyoos Division Yale District, (the "Parcel");

This certificate certifies that the Parcel is subject to a Revitalization Tax Exemption, for each of the taxation years 2018 to 2026 inclusive, equal to:

1. Purpose-Built Rental Housing Project, 100% of the Revitalization Amount attributed to Building Permit No BP 50124 between 2015 (the calendar year before the commencement of construction of the project) and 2017 (the calendar year in which the Revitalization Tax Exemption Certificate is issued).

Any construction of a new improvement or alteration of an existing improvement, on the Parcel described above, undertaken prior to the application for a Revitalization Tax Exemption will not be eligible for consideration;

The maximum Revitalization Tax Exemption authorized must not exceed the increase in the assessed value of improvements on the property resulting from the construction or alterations attributed to Building Permit No BP 50124 between 2015 (the calendar year before the commencement of construction of the project) and 2017 (the calendar year in which the Revitalization Tax Exemption Certificate is issued);

The Property's assessed value of improvements must not be reduced below the amount assessed in the calendar year prior to construction or alteration, as a result of the Revitalization Tax Exemption.

The Revitalization Tax Exemption is provided under the following conditions:

1. The Lessee does not breach any term, condition or provision of, and performs all obligations set out in, the Agreement and the Bylaw;
2. The Lessee has not sold all or any portion of his or her equitable or legal fee simple interest in the Parcel without the transferee taking an assignment of the Agreement, and agreeing to be bound by it;
3. The Lessee, or a successor in title to the Lessee, has not allowed the property taxes for the Parcel to go into arrears or to become delinquent;
4. The Exempt Use (as defined in the Agreement) of the Project is not discontinued.

If the Lessee is subject to an operating agreement with the Provincial Rental Housing Corporation, it must be in compliance with the terms of the operating agreement with the Provincial Rental Housing Corporation.

If any of these conditions are not met then the Council of the City of Kelowna may cancel this Revitalization Tax Exemption Certificate. If such cancellation occurs, the Lessee of the Parcel, or a successor in title to the Lessee as the case may be, shall remit to the City an amount equal to the value of the exemption received after the date of the cancellation of the certificate.

This is a detailed plat map of a portion of the City of St. Louis, Missouri. The map shows a grid of lots, with a central lot highlighted in yellow. The map is titled "PLAT MAP" and "CITY OF ST. LOUIS, MISSOURI". The map includes street names such as PARKWAY, PARKWAY WEST, PARKWAY EAST, PARKWAY SOUTH, and PARKWAY NORTH. The map is oriented with North at the top. The yellow lot is located in the center of the map, between Parkway West and Parkway East, and between Parkway South and Parkway North. The lot is numbered 100. The map also shows other lots, some of which are numbered. The map is a technical drawing, likely a surveyor's map, showing the boundaries of the lots and the streets. The map is a black and white image, with the yellow lot highlighted in yellow. The map is a detailed plat map, showing the layout of the city and the location of the yellow lot. The map is a technical drawing, likely a surveyor's map, showing the boundaries of the lots and the streets. The map is a black and white image, with the yellow lot highlighted in yellow. The map is a detailed plat map, showing the layout of the city and the location of the yellow lot.



PAULSON, KOSCHKE AND ASSOCIATES, INC.
200 BOWDOKE ROAD
MILFORD, N.J. 08054
TEL: 732/642-2723

PERKINS CONSULTING
WALKER CONSULTANTS INC.
ONE 918 - 2001 SPARKS ROAD
AMSTERDAM, N.Y. 14001
TEL: 644/867-6769

PERKINS ARCHITECTS
200 OLD BRIDGE ROAD
200 OLD BRIDGE ROAD
MILFORD, N.J. 08054
TEL: 201/846-0700

POLYMER
POLYMER CONSULTING, INC.
6000-401 ST. PAUL STREET
ST. PAUL, MN 55104
TEL: 612/291-7774 FAX: 612/291-7904

PLAN NO.	PLAN NAME	DATE
001	COVER SHEET	
002	SITE PLAN - FINISHED LEVEL	
003	FINISHED LEVEL PLAN	
004	LEVEL 1 - PLAN	
005	LEVEL 2 - PLAN	
006	LEVEL 3 - PLAN	
007	LEVEL 4 - PLAN	
008	ROOF LEVEL - PLAN	
009	DOOR PLAN	
010	ELEVATIONS	
011	ELEVATIONS	
012	ELEVATIONS - OUTDOOR	
013	ELEVATIONS - OUTDOOR	
014	SECTION	
015	SECTION	
016	SECTION	
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SCHEDULE 7
This forms part of development
Permit # DP14-0158

CITY OF KELOWNA

BYLAW NO. 11236

**Housing Agreement Authorization Bylaw - Ki-Low-Na
Friendship Society - 1745 Chapman Place**

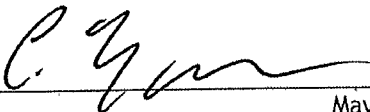
Whereas pursuant to Section 483 of the *Local Government Act*, a local government may, by bylaw, enter into a housing agreement.

Therefore, the Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

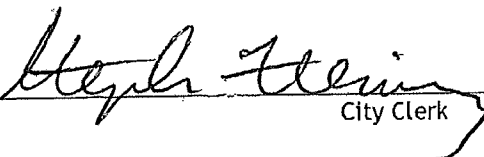
1. The Municipal Council hereby authorizes the City of Kelowna to enter into a Housing Agreement with Ki-Low-Na Friendship Society for the lands known as Lot 2, District Lot 139, ODYD, Plan KAP92715 Except Plan EPP40150 located on 1745 Chapman Place, Kelowna, B.C., a true copy of which is attached to and forms part of this bylaw as Appendix "A".
2. The Mayor and City Clerk are hereby authorized to execute the attached agreement as well as any conveyances, deeds, receipts or other documents in connection with the attached agreement.
3. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first, second and third time by the Municipal Council this 2nd day of May, 2016.

Adopted by the Municipal Council of the City of Kelowna this 9th day of May, 2016.



Mayor



City Clerk

PURPOSE-BUILT RENTAL HOUSING AGREEMENT

THIS AGREEMENT dated for reference May 11, 2016 affects:

LEGAL DESCRIPTION OF PROPERTY SUBJECT TO THE AGREEMENT:

Parcel Identifier: 028-791-649, LOT 2, DISTRICT LOT 139, OSOYOOS DIVISION YALE
DISTRICT PLAN KAP92715 EXCEPT PLAN EPP40150

("Land")

And is

BETWEEN:

KI-LOW-NA FRIENDSHIP SOCIETY, having its offices at 442 Leon Avenue, Kelowna,
B.C. V1Y 6J3

("Owner")

AND:

CITY OF KELOWNA, a local government incorporated pursuant to the *Community
Charter* and having its offices at 1435 Water Street, Kelowna, B.C. V1Y 1J4

("City")

GIVEN THAT:

- A. The Owner has applied to the City for rezoning of the Lands to permit the construction of a housing complex that will include Purpose-Built Rental Housing units, as defined in this Agreement, on certain lands more particularly described in this Agreement;
- B. The City may, pursuant to section 483 of the *Local Government Act*, enter into an agreement with an owner of land that includes terms and conditions regarding the occupancy, tenure, and availability of the housing units on the land or construction on land;
- C. The Owner and the City wish to enter into this Agreement to provide for Purpose-Built Rental Housing on the terms and conditions set out in this Agreement, and agree that this Agreement is a housing agreement under s. 483 of the *Local Government Act*; and
- D. The City has, by bylaw, authorized the execution of this Agreement and the Owner has duly authorized the execution of this Agreement;

This Agreement is evidence that in consideration of \$1.00 paid by the City to the Owner (the receipt of which is

acknowledged by the Owner) and in consideration of the promises exchanged below, the City and Owner agree, as a housing agreement between the Owner and the City under s. 483 of the *Local Government Act*, as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions -

"Caregiver" means an individual who provides assistance with the performance of the personal functions and activities necessary for daily living that a person is unable to perform efficiently for himself or herself;

"City" means the City of Kelowna;

"Dwelling Unit" means accommodation providing sleeping rooms, washrooms, and no more than one kitchen, intended for domestic use, and used or intended to be used permanently or semi permanently for a Household. This use does not include a room in a hotel or a motel.

"Household" means

- (a) a person;
- (b) two or more persons related by blood, marriage, or adoption; or associated through foster care, all living together in one dwelling unit as a single household using common cooking facilities;
- (c) a group of not more than five persons, including boarders, who are not related by blood, marriage, or adoption, or associated through foster care, all living together in one dwelling unit as a single household using common cooking facilities; or
- (d) a combination of (b) and (c), provided that the combined total does not include more than 3 persons unrelated by blood, marriage or adoption or associated through foster care; all living together in one dwelling unit as a single household using common cooking facilities.

In addition, a household may also include up to one Caregiver or nanny;

"Land" means the land described herein;

"LTO" means the Kamloops Land Title Office or its successor;

"Official Community Plan" means the City of Kelowna Official Community Plan Bylaw No. 10500, or its successor bylaw;

"Owner" means the registered leaseholder of the Lands from time to time and any parcels into which the Lands are subdivided;

"Purpose-Built Rental Housing" means a self-contained building(s) containing five or more Dwelling Units that are intended to be used for rental housing

"Tenancy Agreement" means a tenancy agreement as defined in, and subject to, the *Residential Tenancy Act*.

1.2 Interpretation - In this Agreement:

- (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
- (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
- (c) reference to a particular numbered section or article, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered article, section or Schedule of this Agreement;
- (d) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
- (e) the word "enactment" has the meaning given in the *Interpretation Act* on the reference date of this Agreement;
- (f) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (g) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (h) the provisions of s. 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (i) time is of the essence;
- (j) all provisions are to be interpreted as always speaking;
- (k) reference to a "party" is a reference to a party to this Agreement and to their respective successors, assigns, trustees, administrators and receivers;
- (l) reference to a "day", "month", "quarter" or "year" is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided;
- (m) the definitions given in the City of Kelowna Zoning Bylaw No. 8000, or its successor bylaw, and the Official Community Plan apply for the purposes of this Agreement; and
- (n) any act, decision, determination, consideration, consent or exercise of discretion by a party, or other person, as provided in this Agreement must be performed, made or exercised acting reasonably.

1.3 Purpose of Agreement - The Owner and the City agree that:

- (a) this Agreement is intended to serve the public interest by providing for occupancy of a certain number of Dwelling Units, of the kinds provided for in this Agreement, that are in demand in the City of Kelowna but that are not readily available;

- (b) damages are not an adequate remedy to the City in respect of any breach of this Agreement by the Owner, such that the Owner agrees the City should be entitled to an order for specific performance, injunction or other specific relief respecting any breach of this Agreement by the Owner.

ARTICLE 2 HOUSING AGREEMENT AND LAND USE RESTRICTIONS

2.0 Land Use Restrictions - The Owner and the City hereby covenant and agree as follows:

- (a) The Land must be used only in accordance with this Agreement;
- (b) The Owner will design, construct and maintain a building or buildings providing 86 Dwelling Units as Purpose-Built Rental Housing;
- (c) No building on the Land may be subdivided by means of a strata plan for a period of ten (10) years from the date of this agreement.
- (d) Despite subsection (c), and with the prior approval of the City's Council under section 242 of the Strata Property Act in the case of a building that has been previously occupied, a building may be subdivided by a strata plan for the sole purpose of transferring the strata lots to the Provincial Rental Housing Corporation. Any such strata lot must be used and maintained as Purpose-Built Rental Housing in accordance with subsection (b)

ARTICLE 3 HOUSING AGREEMENT AND TRANSFER RESTRICTIONS

3.0 Purchaser Qualifications - The City and the Owner agree as follows:

- (a) the Owner must not, other than as set out in section 2.0 (d) sell or transfer, or agree to sell or transfer, any interest in any building containing Purpose-Built Rental Dwelling Unit(s) on the Land other than a full interest in the fee simple title to an agency or individual that will continue to ensure that the identified Purpose-Built Rental Dwelling Unit(s) are available in accordance with this Agreement.

ARTICLE 4 GENERAL

4.1 Notice of Housing Agreement - For clarity, the Owner acknowledges and agrees that:

- (c) this Agreement constitutes a housing agreement entered into under s. 483 of the *Local Government Act*;
- (d) the City is requiring the Owner to file a notice of housing agreement in the LTO against title to the Land;
- (c) once such a notice is filed, this Agreement binds all persons who acquire an interest in the Land; and the notice of housing agreement may not be released from title to the Land, and this Agreement may not be terminated, sooner than ten (10) years from the date of this Agreement;
- (d) repayment of any rental grant received from the City will be required if this Agreement is terminated

and the notice of housing agreement is released from title to the Lands. Funds received would be directed to the Housing Opportunities Reserve Fund.

- 4.2 No Effect On Laws or Powers** - This Agreement does not
- (a) affect or limit the discretion, rights, duties or powers of the City under any enactment or at common law, including in relation to the use or subdivision of land,
 - (b) impose on the City any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement,
 - (c) affect or limit any enactment relating to the use or subdivision of land, or
 - (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of land.
- 4.3 Management** –The Owner further covenants and agrees that it will maintain the Dwelling Units in a satisfactory state of repair and fit for habitation and will comply with all laws, including health and safety standards applicable to the Land.
- 4.4 Notice** - Any notice which may be or is required to be given under this Agreement must be in writing and either be delivered or sent by facsimile transmission. Any notice which is delivered is to be considered to have been given on the first day after it is dispatched for delivery. Any notice which is sent by fax transmission is to be considered to have been given on the first business day after it is sent. If a party changes its address or facsimile number, or both, it must promptly give notice of its new address or facsimile number, or both, to the other party as provided in this section.
- 4.5 Agreement Runs With the Land** - Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted by the Owner to the City in respect of the Land and this Agreement burdens the Land and runs with it and binds the Owner's successors in title and binds every parcel into which it is consolidated or subdivided by any means, including by subdivision or by strata plan under the *Strata Property Act*.
- 4.6 Limitation on Owner's Obligations** - The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Land.
- 4.7 Release** – The Owner by this Agreement releases and forever discharges the City and each of its elected officials, officers, directors, employees and agents, and its and their heirs, executors, administrators, personal representatives, successors, and assigns, from and against all claims, demands, damages, actions, or causes of action by reason of or arising out of advice or direction respecting the ownership, lease, operation or management of the Land or the Dwelling Units which has been or at any time after the commencement of this Agreement may be given to the Owner by all or any of them. This clause will survive the termination of this Agreement.
- 4.8 Joint Venture** – Nothing in this Agreement will constitute the Owner as the agent, joint venturer, or partner of the City or give the Owner any authority to bind the City in any way.
- 4.9 Waiver** - An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.

- 4.10 Further Acts** - The Owner shall do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.
- 4.11 Severance** - If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
- 4.12 Equitable Remedies** - The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.
- 4.13 No Other Agreements** - This Agreement is the entire agreement between the parties regarding its subject and it terminates and supersedes all other agreements and arrangements regarding its subject.
- 4.14 Amendment** - This Agreement may be discharged, amended or affected only by an instrument duly executed by both the Owner and the City.
- 4.15 Enurement** - This Agreement binds the parties to it and their respective successors, heirs, executors and administrators. Reference in this Agreement to the "City" is a reference also to the elected and appointed officials, employees and agents of the City.
- 4.16 Deed and Contract** - By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

IN WITNESS WHEREOF the parties hereunto have executed this Agreement on the date and year first above written,

SIGNED, SEALED & DELIVERED in
the presence of:

Cameron Martin
Signature of Witness

CAMERON MARTIN
Print Name

864 Sutherland Ave
Kelowna
Address

Non-profit Manager
Occupation

"OWNER"

by its authorized signatories:

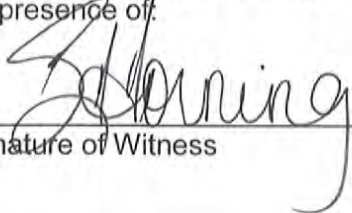
Edna M. Terbasket

Edna Terbasket
Print Name:

Christina Verhagen

Christina Verhagen
Print Name:

SIGNED, SEALED & DELIVERED in)
the presence of.)


Signature of Witness)

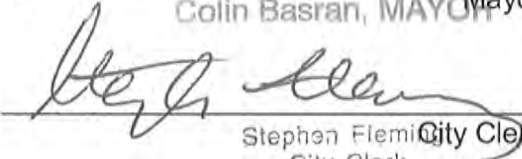
Print Name)

Address)

Occupation)

CITY OF KELOWNA
by its authorized signatories:


Colin Basran, MAYOR Mayor


Stephen Fleming City Clerk
City Clerk

Report to Council



Date: October 30, 2017
File: o600-10
To: City Manager
From: Darren Tompkins, Purchasing Manager
Subject: New Purchasing Bylaw No. 11477

Recommendation:

THAT Council receive for information, the Purchasing Bylaw Report from the Purchasing Manager, dated October 30, 2017 regarding approval of a new Purchasing Bylaw No. 11477

AND THAT Purchasing Bylaw No. 11477 be forwarded for reading consideration

AND FURTHER THAT Purchasing Bylaw No. 9590 be rescinded

Purpose:

To Provide council with information of the proposed changes within the new Purchasing Bylaw No. 11477 and forward it for initial consideration and rescind the current Purchasing Bylaw No. 9590.

Background:

The current Bylaw (9590) is not fully compliant with recently introduced trade agreement requirements.

The City became subject to the following trade agreements in,

- July 1995, Agreement on Internal Trade (AIT- all provinces), (now replaced with CFTA).
- July 2010, New West Partnership Trade Agreement (NWPTA- BC, AB, SK (2012), MB (2017)).
- July 2017, Canada Free Trade Agreement (CFTA -all provinces).
- July 2017, Comprehensive Economic and Trade Agreement (CETA -EU, Canada).

There were 2 references of geographical location where preference to local vendors was stated and those have been amended or removed. One was the definition for Professional Consulting Services (part 1, section 1.2) being noted as for BC, Alberta, and Saskatchewan. This now needs to include all of Canada. Second was the local supplier preference in part 2 section 2.5, it is non-compliant and should be removed

The current Bylaw 9590 includes operational level specific content (competitive process specifics, like dollar thresholds and direct award conditions) which already exists in Purchasing Policy. These operational specifics are best addressed in a Policy so they can be quickly maintained in response to future developments like new procurement strategies or trade agreement changes. As an example the CETA trade agreement is proposing to index the thresholds each year in the agreement, so they could change every year.

There has been some revision of document content to enhanced the clarity of the messaging. Some titles and words or phrases have been replaced to use more accurate terminology.

A new Construction category was added to the acquisition categories of Goods and Services. All applicable trade agreements have a construction category because the Parties recognize that the category has different connotations. To align with those differing expectations and obligations the introduction of a construction category serves the City well.

Internal Circulation:

- Deputy City Manager
- Divisional Director, Infrastructure
- Divisional Director, Corporate and Protective Services
- Divisional Director, Financial Services

Legal/Statutory Authority:

Community Charter, Part 5, Division 3, Subsection 173 – provide for the expenditure of municipal funds included in its financial plan;

Community Charter, Part 5, Division 6, Section 154, Subsection (1) (b) – delegate powers, duties and functions to its officers and employees;

Legal/Statutory Procedural Requirements:

After adoption of Purchasing Bylaw No. 11477, Purchasing Bylaw No. 9590 is hereby rescinded and all amendments thereto are rescinded.

Existing Policy (Bylaw):

Purchasing Bylaw No. 9590

Considerations not applicable to this report:

- **Personnel Implications:**
- **External Agency/Public Comments:**
- **Alternate Recommendation:**
- **Financial/Budgetary Considerations:**
- **Communications Comments:**

Submitted by:

D Tompkins, Purchasing Manager

Approved for inclusion:



RM Divisional Director Corporate and Protective Services

CITY OF KELOWNA

BYLAW NO.11477

A Bylaw to Set Purchasing Policy

WHEREAS pursuant to the Community Charter, Council may provide for the expenditure of municipal funds in a designated manner;

AND WHEREAS pursuant to the Community Charter, Council may by bylaw delegate its powers, duties, and functions to its officers and employees;

AND WHEREAS the Municipal Council of the City of Kelowna wishes to set authority for Purchasing Policy that provides for the expenditure of municipal funds and to delegate certain authority with regard to the approval and execution of certain contracts and agreements;

NOW THEREFORE the Municipal Council of the City of Kelowna, in open meeting assembled, hereby enacts as follows:

PART 1 - GENERAL

1.1 This bylaw may be cited for all purposes as City of Kelowna "Purchasing Bylaw No. 11477".

1.2 In this bylaw:

"Best Value" means the most advantageous option for the City while considering a combination of the financial, quality and ancillary attributes of the alternatives under review;

"City" means the corporation of the City of Kelowna;

"Council" means the municipal council of the City;

"Financial Officer" means the person appointed by Council pursuant to section 149 of the Community Charter;

"Professional Consulting Services" means services to be provided by a person or persons who are licensed and regulated by a governing body in their professional capacity, and which services are provided pursuant to those regulations. Such services include, but not limited to, engineering, landscape architecture and architecture;

"Public tendering process" means the process whereby tenders are solicited by the City by means of public advertisement;

"Purchasing Manager" means the City employee that in the execution of their duties is responsible for Purchasing Policy content and the procurement activity of the City;

"Purchasing Policy" means all the so named documents that sets the authority, parameters and methods used by the City in its procurement activity;

- 1.3 A delegation under this bylaw includes a delegation to a person who is from time to time the lawful deputy or designate of the delegate.
- 1.4 A person to whom a power, duty or function has been delegated under this bylaw has no authority to further delegate to another person any power, duty or function.
- 1.5 The provisions of this bylaw are subject to any overriding requirements of the Community Charter or Local Government Act with respect to specific purchases or commitments, or with respect to the approval of certain kinds of contracts.
- 1.6 The Purchasing Manager is authorized to review and recommend amendments to Purchasing Policy.

PART 2 – PROCUREMENT

- 2.1 The Purchasing Branch is established as a centralized purchasing function having control of the acquisition of all goods, services, and construction required by the City.

The Purchasing Branch will establish, adhere to, and administer general procurement practices and procedures that supports openness and transparency of business while avoiding discriminating procurement practices or circumventing competitive obligations.

Authority

- 2.2 The competitive obligations outlined in Purchasing Policy, and all awards made pursuant to it, shall be conducted under the direction the Purchasing Branch.
- 2.3 Preference shall be given to the supplier offering the Best Value to the City.

Commitment Authority

- 2.4 Approvals for purchases or commitments must relate only to the authorized employee's own area of responsibility; except for the City Manager or Designate.
- 2.5 No purchase or commitment shall be made by any employee of the City, unless it falls within the current budget approved or amended by Council as to nature and amount.
- 2.6 Purchases or commitments must not be issued where budget over-expenditure will result and it is the responsibility of each manager to ensure that this requirement is complied with.
- 2.7 The City Manager and the Financial Officer shall establish approval limits for City employees and procedures, not inconsistent with this bylaw, to govern and control all commitments of City funds. No City employee's approval limit shall be greater than the City Manager's.
- 2.8 City employees may approve purchases of goods, services, or construction up to their individual approval limits, so long as Purchasing Policy has been followed. The approving employee or the Purchasing Manager may execute binding contracts or commitments, including amendments, related to those purchases on behalf of the City.
- 2.9 The City Manager may approve purchases of goods, services or construction and execute binding contracts or commitments, including amendments, on behalf of the City or when the expenditure is in excess of individual approval limits of City employees providing that:
 - (a) The purchase is within budget, and
 - i. the expenditure has been approved by Council in the current year budget, or
 - ii. approved through the budget amendment process, and
 - (b) Purchasing Policy has been followed, and
 - i. the accepted tender is the best value with no conditions or uncertainties.
- 2.10 A written information report of the contract awards exceeding \$500,000 shall be made available every quarter.

- 2.11 Council's approval is required in each individual case for all purchases of goods, services, or construction that do not fall under section 2.08 or 2.09 of this bylaw.
- 2.12 In any event, the Mayor and the City Clerk together, shall be authorized signatories for any document the execution of which has been authorized by Council either through existing policy or bylaw, or on an individual case basis, and that is consistent with the current City budget, as to both nature and amount."

PART 3 – EFFECTIVE DATE

- 3.1 This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

PART 4 – REPEAL

- 4.1 City of Kelowna Purchasing Bylaw No. 9095 and all amendments thereto, are hereby repealed.

Read a first, second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

Report to Council



Date: October 30, 2017
File: 00-500
To: City Manager
From: L. Kayfish, Risk Manager
Subject: Good Neighbour Bylaw

Recommendation:

THAT Council receive for information, the Report from the Risk Manager dated October 23, 2017 regarding the creation of the “Good Neighbour Bylaw” No. 11500, including providing for nuisance abatement fees and consolidating existing City bylaws;

AND THAT Council gives reading consideration to Bylaw No. 11500 being the Good Neighbour Bylaw;

AND FURTHER THAT Council gives reading consideration to Bylaw No. 11503 being Amendment No. 19 to Bylaw Notice Enforcement Bylaw No. 10475.

Purpose:

For council to consider the adoption of a new Good Neighbour Bylaw that is intended to update several existing bylaws under one umbrella and provide the City with a new authority to levy ‘nuisance abatement fees’ to serve as a new compliance tool when faced with properties where owners and occupants repeatedly fail to meet reasonable community standards set out in the bylaw and other legislation.

Background:

Following an open workshop during the morning council meeting held on September 11, 2017 Council directed staff to bring the proposed Good Neighbour Bylaw forward to an afternoon meeting for consideration.

A. Good Neighbour Bylaws in B.C. and Canada

Good Neighbour bylaws are bylaws that consolidate many different nuisance type activities into a single bylaw. They can include a wide variety of items such as street nuisances, noise regulations, property maintenance, smoke, blasting regulations, graffiti, odours, weed control, idling, fires, fireworks, firearms, health, panhandling and litter. They may also be referred to as Community Standards or Nuisance Bylaws.

Numerous municipalities across Canada and within the Province of BC have enacted Good Neighbour Bylaws. The scope and content of these bylaws is varied. In developing the draft bylaw, good neighbour (or equivalent) bylaws from Abbotsford, Armstrong, Calgary, Campbell River, Charlottetown, Clearwater, Courtenay, Edmonton, Hope, Lake Country, Lloydminster, Mission, Nakusp, Nipawin, Oliver, Osoyoos, Penticton, Red Deer, Regina, Rossland, Surrey, Vernon, West Kelowna, West Vancouver, and Williams Lake and more were examined.

The proposed City of Kelowna Good Neighbour Bylaw amalgamates and updates the following current bylaws that will be rescinded when the new bylaw is adopted:

- Anti-Litter Bylaw, No. 3477
- Noise & Disturbances Control Bylaw, No. 6647
- Residential Nuisance Bylaw, No. 7782
- Unsightly Premises and Visual Nuisance Bylaw, No. 8217

B. Nuisance Abatement Fees

Nuisance abatement fees are charges imposed by municipalities on property owners when there are repeat calls for service to a property over a period of time. Criteria for applying nuisance abatement fees differ between municipalities. The proposed approach for Kelowna is more than one nuisance service call within a 24-hour period or more than three nuisance service calls within a 12-month period. This is consistent with: Abbotsford, Surrey, Hope, Oliver, Penticton, Rossland, Vernon, West Kelowna and Clearwater, among others.

Nuisance abatement fees are directly associated with the real property where the nuisance is present or manifesting from, accordingly they are charged to the owner of the property and can be added to the property tax roll if not paid. This serves the purpose of putting the onus on the property owner to perform their due diligence as the party responsible for ensuring the property is managed and cared for in a reasonable manner that prevents nuisances from occurring. The fee is intended to motivate property owners that reside on site as well as landlords that may not take an active role in the day to day conditions or activities on the property they are legally responsible for as an owner.

The proposed nuisance abatement fee is \$250 per response by either the RCMP, Bylaw Services or KFD. The fee represents an estimated average full cost of response to nuisance calls by the RCMP and/or Bylaw Services and/or the fire department, including attendance, equipment, report writing, management review and other costs. The proposed fee is intended to motivate owners to work diligently to obtain compliance at the property promptly. Prior to a nuisance abatement fee being charged owners will have a minimum of 30 days to achieve compliance before the first nuisance abatement fee would be charged against the property.

C. Application of Nuisance Abatement Fees

Properties causing significant ongoing nuisances can disrupt whole neighbourhoods and negatively affect the enjoyment and peace of residents in surrounding areas. Properties that may see the use of nuisance abatement fees include ongoing unsightly premises, those regularly causing disturbing levels of noise, those associated with criminal activities that cause nuisances and in instances where owners display an ongoing apathy for complying with reasonable community standards.

As with the application of all bylaws the nuisance abatement fee will be used as part of a balanced fair but firm enforcement strategy where appropriate. It may not be used in every instance where a property attracts 3 or more service calls in 12 months. Consideration will be given to the circumstances of the service calls, possible neighbourhood disputes and the extent of the noncompliant nuisances.

The nuisance abatement fee may be applied when:

- There is evidence of a pattern of nuisance behavior on the property that is called in by complainants from the community (not self-generated files from proactive inspections)
- Multiple calls for service related to nuisances at the property are logged demonstrating a pattern of non-compliance. Properties subject to the fee will, at a minimum, have at least 3 separate nuisance files documented within a 12-month period;
- Prior to charging the fee the owner of the property will be provided with written notice of the City's intent to charge nuisance abatement fees for subsequent service calls, the notice will include:
 - The particulars of nuisances associated with the property in the last 12 months;
 - Notification of the fees that could be imposed;
 - Notification that other legal remedies may be undertaken in addition to the nuisance abatement fees;
 - Provide the owner reasonable notice, as determined by the bylaw supervisor, to remedy the situation prior to the first nuisance abatement fee being applied.
- If the property remains a nuisance after the notice period has expired, then any service call for a new nuisance will be charged the appropriate fee;
- If identified as a nuisance property, that designation remains with the property for 12 months, regardless of ownership change;
- Abatement fees charged are placed on the property's taxes as taxes in arrears if not paid by December 31st of the year they are billed.

D. Construction Noise

The new bylaw incorporates and updates the existing Noise & Disturbances Control Bylaw, No. 6647. Included in this section is the hours in which construction noise can occur in the City. Staff are recommending the allowed time be reduced by one hour in the evening changing the current allowed construction noise period of 7am to 10pm to a 9pm stopping time. Allowing construction to proceed until 10pm without an exemption puts Kelowna among the most relaxed municipalities in Canada with respect to construction noise. The majority of municipalities require construction noise to cease at 9pm or before with many being more restrictive.

In addition, the new bylaw will streamline the process for acquiring an exemption to construction times by removing the requirement for council approval and delegating the authority to the City Engineer. This should balance any concerns regarding the one-hour reduction.

E. Highlighted Changes & Updates:

- Noise – Reduces allowed construction noise period by 1 hour to: 7am - to 9pm (from 10pm)
- Noise – Allows Manager of Development Services or Manager of Public Works to authorize construction noise outside regularly permitted times
- Noise – Removes requirement for council to approve afterhours construction noise for longer than a 5 day duration, staff will report such instances to council for information, including restrictions and mitigations put in place
- Noise – Restricts overly loud or “explosive” noise from vehicle engines & mufflers, including boats and motorbikes
- Minimum fines for noise coming from private property will be reduced from \$500 to \$250 for the first offence and continue at \$500 for the second and subsequent offences
- Graffiti – Specifies owners of distribution & utility boxes must comply with requirements for timely removal of graffiti
- Composting / Vermin – provides for organic material be in a closed & sealed composter

F. Fine Amounts & Bylaw Notice Enforcement Bylaw Updates

Fines and penalties under this bylaw are stated as \$100 minimum and up to \$10,000 maximum. The Bylaw Notice Bylaw indicates the standard penalty that applies for a contravention under each section of the Good Neighbour Bylaw. Staff have reviewed the fine amounts associated with each of the equal or similar sections from the amalgamated bylaws that will be rescinded and well as provisions that are new to this bylaw. In some cases, fine amounts have been amended to be lower than previously for first offences. The differential fine amounts align with planned changes to internal practices, including potentially issuing more fines but for lesser amounts for some offences, and considering nuisance abatement fees will be used as a compliance tool with repeat offenders

Financial/Budgetary Considerations:

Material changes in revenue are not expected by the introduction of nuisance abatement fees, new fine types or changed amounts in the Bylaw Notice Enforcement bylaw. The financial impact of the new bylaw and fees will be reviewed in 2018 in preparation for the 2019 budget.

Internal Circulation:

Deputy City Manager
Divisional Director, Corporate & Protective Services
Divisional Director, Human Resources
Development Services Director
City Clerk
Bylaw Services Manager
Manager Police Services
Superintendent RCMP

Infrastructure Operations Department Manager
Community Communications Manager
Financial Planning Manager
Crime Prevention Supervisor

Legal/Statutory Authority:

- Anti-Litter Bylaw, No. 3477
- Noise & Disturbances Control Bylaw, No. 6647
- Residential Nuisance Bylaw, No. 7782
- Unsightly Premises and Visual Nuisance Bylaw, No. 8217
- Bylaw Notices Bylaw, No. 11350

Considerations not applicable to this report:

Legal/Statutory Procedural Requirements:

Existing Policy:

Personnel Implications:

External Agency/Public Comments:

Communications Comments:

Alternate Recommendation:

Submitted by:

L. Kayfish, Manager, Risk Management & Occupational Health & Safety

Approved for inclusion:



Divisional Director Corporate and Protective Services

cc:

Divisional Director, Community Planning & Strategic Investments
Divisional Director, Corporate Strategic Services
Development Engineering Manager
Public Works Manager
Legislative Coordinator



Good Neighbour Bylaw: Best Practice & Nuisance Abatement Solution

October 30, 2017



Agenda

- 1) Overview of Bylaw
- 2) Nuisance Abatement Fees
- 3) Changed & bylaws repealed
- 4) Fines & Penalties
- 5) Recommended for adoption

Scope

- ▶ Nuisance Abatement Fees, a new authority
- ▶ Unsightly Premises & other nuisances
- ▶ Noise
- ▶ Parks, Roads & Public spaces
- ▶ Graffiti

Best Practice & Harm Reduction

- ▶ Consolidates nuisance related bylaws
- ▶ Related bylaws needed updating
- ▶ Good fit with nuisance abatement fees

Consultation, Research & Legal Review (how)

- ▶ Significant Internal Consultation
- ▶ Use of City Solicitor to develop content & wording
- ▶ Survey of similar bylaws in BC and Canada
- ▶ Interviews with staff from other jurisdictions

Nuisance Property Abatement Fees

- ▶ Imposed on property owners following repeated call
- ▶ More than 1 in 24hrs or more than 3 per year
- ▶ Proposed amount is: \$250 per call
- ▶ Includes attendance by RCMP, KFD or Bylaw
- ▶ Successfully being used in BC
- ▶ Fees can be applied to taxes
- ▶ Does not restrict other enforcement actions

Abatement Fees – When?

- ▶ Multiple calls for service related to nuisances at the real property
- ▶ At a minimum, have at least 3 separate nuisance files documented within a 12-month period

Abatement Fee Procedures

- ▶ Prior to charging the fee the owner of the property will be provided with written notice of the City's intent to charge nuisance abatement fees for subsequent service calls, the notice will include:
 - ▶ The particulars of nuisances associated with the property in the last 12 months;
 - ▶ Notification of the fees that could be imposed;
 - ▶ Notification that other legal remedies may be undertaken in addition to the nuisance abatement fees;
 - ▶ Provide the owner reasonable notice, determined by the bylaw supervisor, to remedy the situation prior to the first nuisance abatement fee being applied.

Abatement Fee Procedures

- ▶ RCMP, Bylaw & KFD to meet and communicate about properties drawing disproportionately on resources
- ▶ If identified as a nuisance property, that designation remains with the property for 12 months, regardless of ownership change
- ▶ RCMP & KFD to provide Bylaw call details to log nuisance calls and trigger fees to be charged
- ▶ Unpaid fees placed on the property's taxes as taxes on December 31st
- ▶ Will not count medical calls (ODs), serious crime, false alarms, etc.

Bylaws: Repealed

- ▶ Anti-Litter Bylaw, No. 3477
- ▶ Noise & Disturbances Control Bylaw, No. 6647
- ▶ Residential Nuisance Bylaw, No. 7782
- ▶ Unsightly Premises and Visual Nuisance Bylaw, No. 8217
- ▶ Bylaw Notice Enforcement, bylaw No. 10475 (***amend***)

Notable Changes & Updates

- ▶ Graffiti – Includes distribution & utility boxes
- ▶ Noise – Reduced Constriction period, 10pm to 9pm end
- ▶ Noise – Allows City Engineer to authorize construction noise outside 7:00-21:00
- ▶ Noise – Restricts “roaring or explosive” engine or exhaust sounds from cars, motorbikes & boats
- ▶ Composting / Vermin – requires organic material be in a closed & sealed composter

Fines

- ▶ Fines range from \$100 minimum to \$10,000 maximum possible
- ▶ Penalties in Bylaw Notices are set at \$100 to \$500
- ▶ Different 1st and 2nd offence fine amounts have been set out for some contraventions

Recommendation

- ▶ The Good Neighbour Bylaw be forwarded for reading consideration
- ▶ Amendments to the Bylaw Notice Enforcement Bylaw be forwarded for reading consideration
- ▶ After adoption, council repeal the bylaws indicated in the council report



Questions?

For more information, visit kelowna.ca.

CITY OF KELOWNA

BYLAW NO. 11500

A Bylaw for the purpose of preventing, abating and prohibiting nuisances and other objectionable situations

WHEREAS under Sections 8 and 64 of the *Community Charter*, Council may, by bylaw, regulate, prohibit and impose requirements in relation to nuisances, disturbances and other objectionable situations;

AND WHEREAS under Section 17 of the *Community Charter*, Council directs that if a person subject to a requirement fails to take the required action the municipality may fulfill the requirement at the expense of the person and recover the costs incurred from that person as a debt;

AND WHEREAS under Section 194 of the *Community Charter*, Council may, by bylaw, impose a fee payable in respect of all or part of a service of the municipality or the exercise of a regulatory authority by the municipality;

AND THEREFORE, the Council of the City of Kelowna, in an open meeting assembled, enacts as follows:

1. Introduction

- 1.1 This bylaw may be cited as "Good Neighbour Bylaw No. 11500".

2. Definitions

- 2.1 In this bylaw:

Building materials includes items and implements used in the construction of structures or in landscaping, including lumber, windows, doors, roofing materials, fill, soil, scaffolding, tools and equipment;

Bylaw Enforcement Officer means a bylaw enforcement officer appointed by Council of the City of Kelowna pursuant to section 36(1) of the *Police Act*, RSBC 1996, c. 367;

Bylaw Supervisor means the person appointed by Council of the City of Kelowna to exercise supervisory responsibility over **bylaw enforcement officers** or other persons;

Construction Noise means any noise or sound made by:

- (i) the carrying on of works in connection with the construction, demolition, reconstruction, alteration or repair of any building or structure;
- (ii) the carrying on of any excavation by machinery or heavy equipment; or
- (iii) the moving or operating of any kind of machine, engine or construction equipment.

Customer Service Box means a distribution box for publications or a drop box for couriers;

Derelict means

- (a) physically wrecked or disabled;

- (b) in the case of a **motor vehicle**, incapable of operating under its own power or, in the case of a trailer, incapable of being towed in the manner a trailer is normally towed; or
- (c) in the case of a **motor vehicle**, lacking number plates for the current year pursuant to the regulations under the *Motor Vehicle Act*, RSBC 1996, c. 318;

Development Engineering Manager means the person with supervisory authority over the City's department of Development Engineering;

Dumpster means a trash receptacle designed to be hoisted and the trash within it deposited into a truck;

Graffiti means one (1) or more letters, symbols or marks, however made, on any structure, place or thing, including a **utility kiosk**, **customer service box** or **dumpster**, but does not include marks made accidentally, or any of the following:

- (a) a sign, public notice or traffic control devices authorized by the Public Works Manager appointed by Council of the City of Kelowna;
- (b) a sign authorized by the Sign Bylaw, No. 8235, as amended or replaced from time to time;
- (c) a public notice authorized by a City bylaw or by provincial or federal legislation; or
- (d) in the case of **real property**, a letter, symbol or mark for which the **owner** or tenant of the **real property** on which the letter, symbol or mark appears has given prior, written authorization, such as a **mural**;

Motor Vehicle means a vehicle that is designed to be self propelled;

Mural means an artistic rendering or drawing painted or otherwise applied to a building or structure, and where permission has been granted by the **owner** of the building or structure to apply the **mural**;

Nuisance Abatement Fee means the fees, charges and amounts stated in Schedule "A" to this bylaw;

Nuisance Service Call means a response by a **bylaw enforcement officer** or RCMP member to, or abatement of, any activity, conduct or condition occurring on or near **real property** that is contrary to a provision within sections 4, 7, 8 or 9 of this bylaw;

Order to Comply means an order substantially in the form described in provision 10 of this bylaw;

Owner means the registered owner of an estate in fee simple, the tenant for life under a registered life estate, the registered holder of the last registered agreement for sale, the holder or occupier of land held in the manner referred to in section 228 or 229 of the *Community Charter*, and an Indian who is an owner under the letters patent of a municipality incorporated under section 9 of the *Local Government Act*.

Public Space means any **real property** or portions of **real property** owned or leased by the City to which the public is ordinarily invited or permitted to be in or on, and includes, but is not limited to, the grounds of public facilities or buildings, the surface of Okanagan Lake and the lake foreshore, any public transit exchange, transit shelter or bus stop, and public parkades or parking lots;

Public Works Manager means the person with supervisory authority over the City's department of Public Works;

Real Property means land, with or without improvements so affixed to the land as to make them in fact and law a part of it;

Residential Areas means lands that are used residentially in a zone that permits residential use under the City of Kelowna Zoning Bylaw No. 8000, as amended or replaced from time to time (the “Zoning Bylaw”);

Revenue Supervisor means the municipal officer assigned responsibility as collector of taxes for the City;

Rubbish includes, but is not limited to, dead animals, paper products, crockery, glass, metal, plastics, plastic, metal or glass containers, wire, rope, pipes, machinery, tires, household appliances, litter, organic matter not in a closed and sealed composter, vehicle or mechanical parts, dilapidated furniture, and any other scrap or salvage, unless the materials are in a closed building or structure and not visible from another parcel or a **public space**, and for clarity, **rubbish** material covered by a tarp or other cover are not within a closed building or structure;

Street means any highway, roadway, sidewalk, boulevard, lane and any other way which the public is ordinarily entitled or permitted to use for the passage of vehicles or pedestrians, but does not include a private right-of-way on private property;

Utility Kiosk means an above-ground structure that is used for housing or storing electrical or communications components, circuits, devices, equipment, materials, cables, connections and the like.

3. **General Prohibition**

- 3.1 No person shall do any act or cause any act to be done which constitutes a nuisance at law.

4. **Property Nuisances**

- 4.1 No **owner** or occupier of **real property** shall permit any act to be done which constitutes a nuisance at law on that **real property**.
- 4.2 No **owner** or occupier of **real property** shall permit or allow the **real property** to become or remain unsightly.
- 4.3 Without limiting the generality of section 4.2 of this bylaw, an **owner** or occupier of **real property** must not:
- (a) permit an accumulation of water, filth or **rubbish** on the **real property**;
 - (b) keep a **derelict motor vehicle**, vehicle, boat or trailer except as part of a lawful business operating under a license from the City;
 - (c) permit the accumulation on the **real property** of noxious, offensive or unwholesome materials, substances or objects;
 - (d) Except when specified as a permitted use in the Zoning Bylaw, allow or permit an accumulation of **building materials** on the **real property** for more than fifteen (15) days unless:
 - (i) the **owner** of the **real property** is in possession of a valid building permit; or
 - (ii) the **building materials** are stored in a closed building or structure such that they are not visible from another parcel or a **public space**.
- 4.4 Except as permitted by this bylaw, no **owner** or occupier of **real property** in **residential areas** as defined in this bylaw shall make or cause, or permit to be made or caused, any contamination of the atmosphere through the emission or smoke, dust, gas, sparks, ash, soot, cinders, fumes, or other effluvia that is liable

to foul or contaminate the atmosphere or make or cause, or permit to be made or caused any odour or dust which is liable to disturb the quiet, peace, rest, enjoyment, comfort of convenience of individuals or the public.

5. Graffiti

- 5.1 No person shall place **graffiti**, or cause **graffiti** to be placed on any wall, building, fence, sign or any other structure or surface, adjacent to a **street** or **public space**.
- 5.2 No **owner** or occupier of **real property** adjacent to a **street** or other **public space** shall permit **graffiti** to be placed on any wall, building, fence, sign, **utility kiosk, customer service box, dumpster** or other structure or surface.
- 5.3 Every **owner** or occupier of **real property** shall keep any wall, building, fence, sign or other structure or surface that is located on such **real property**, and adjacent to a **street** or **public space**, free of **graffiti**.
- 5.4 Every **owner** of a **motor vehicle** shall keep the **motor vehicle** free of **graffiti**.

6. Street and Public Space Nuisances

- 6.1 No person shall place **graffiti**, or cause **graffiti** to be placed on any wall, building, fence, sign or other structure or surface in a **street** or **public space**.
- 6.2 No person shall on a **street** or in a **public space**:
- (a) urinate or defecate;
 - (b) sleep in a **motor vehicle**; or
 - (c) participate in a violent confrontation or struggle.
- 6.3 No person shall on a **street** or in a **public space**:
- (a) scatter, dump, or dispose of any garbage, glass, crockery, litter or other material, whether liquid or solid, and whether likely to injure any person, animal, vehicle or not;
 - (b) place or throw any circular, pamphlet, handbill or other paper material, whether or not the paper material had been previously placed upon any **motor vehicle** or other vehicle, without the consent of the **owner** or driver thereof;
 - (c) cut, remove or damage any tree, shrub or flower plant, bush or hedge;
 - (d) deface, injure or damage any **street**, ditch or fence or anything erected or maintained for purpose of lighting a **street**;
 - (e) dispose or place or leave any cement, mortar, lime, or any other substance having a damaging or destructive effect upon the concrete, asphalt, bushes, shrubs, or trees, or grass situate thereon;
 - (f) stamp, paint, post, affix or otherwise place any placard, bill, poster, notice advertisement without first having obtained the permission of the City; or
 - (g) remove to, or accumulate in from lands adjacent to a **street** or **public space**, grass cuttings, leaves or **rubbish**.

7. Property Noise

- 7.1 No person shall make or cause, or permit to be made or caused, any noise in or on a **street** or elsewhere in the City that is liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public.
- 7.2 No **owner** or occupier of **real property** shall allow or permit such **real property** to be used so that noise or sound which emanates therefrom is liable to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of individuals or the public.
- 7.3 No person shall make, cause, or permit to be made or caused, noise or bass sound of a radio, television, player, or other sound playback device, public address system, or any other music or voice amplification equipment, musical instrument, whether live or recorded or live, whether amplified or not, in or on private property or in any **public space** or **street** in such manner that is liable to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of individuals or the public.
- 7.4 No person shall own, keep or harbour any animal or bird which by its barks, cries or sounds is liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public.

8. Construction Noise

- 8.1 No person shall on any day before 0700 hours or after 2100 hours make or cause, or permit to be made or caused any **construction noise**.
- 8.2 A person may apply to the **public works manager** for permission to vary the time restrictions established in section 8.1 of this bylaw with respect to **construction noise** generated on **public spaces** or **streets**. A person may apply to the **development engineering manager** for permission to vary the time restrictions established in section 8.1 of this bylaw with respect to **construction noise** generated on **real property** that is not a **public space** or a **street**. An application in the form specified by the **development engineering manager** or **development engineering manager**, as appropriate, must be submitted at least five (5) business days prior to the date of the proposed activity.
- 8.3 Upon receiving an application submitted in accordance with section 8.2 of this bylaw, the **City** may, by written permit, vary the time restrictions set out in section 8.1 of this bylaw for a certain location and activity if, in the opinion of the **public works manager** or **development engineering manager**, as appropriate:
- (a) public safety or traffic considerations make it necessary or expedient that the work or activity commence or continue beyond those time restrictions; or
 - (b) it is impossible or impractical to carry out, within those time restrictions:
 - (a) excavation;
 - (ii) concrete pouring or finishing;
 - (iii) major structural or mechanical component delivery or placement; or
 - (iv) relocation of a building; and

after considering whether there should be prior notification of the neighbourhood that would be affected, the **public works manager** or **development engineering manager**, as appropriate may impose such terms

and restrictions as deemed necessary in the circumstances to mitigate the impact of the **construction noise** on the adjacent neighbourhood.

- 8.4 Notwithstanding any provisions of this bylaw, a person may perform works of an emergency nature for the preservation or protection of life, health, or property but the onus shall be on the person performing the work to show that the work was of an emergency nature.
- 8.5 Notwithstanding the provisions of this bylaw, a person may apply for and receive from the City a permit for a special event which in Council of the City of Kelowna's opinion is in the public interest, in which case the provisions of this bylaw shall be inoperable to the extent the activities constituting the special event are permitted.
- 8.6 Notwithstanding the other provisions of this bylaw, where a normal farming practice as defined by the *Farm Practices Protection (Right to Farm) Act*, RSBC 1996, c. 131 involves the operation of machinery or equipment, this bylaw does not apply.

9 Deemed Objectionable Noises

- 9.1 No person shall launch a motor boat from any lands in the City or operate a motor boat in the City if the motor boat is equipped with an exhaust system that permits the exhaust gases from the engine to be expelled directly into the air without first passing through water unless the motor boat is equipped with a muffling device that ensures the exhaust gases from the engine are cooled and expelled without excessive noise.
- 9.2 No person shall operate a motor boat powered by an engine equipped with the exhausting devices commonly described as dry stacks or dry headers.
- 9.3 No person shall operate a motor boat powered by an engine equipped with exhausting devices commonly described as water injected headers or over-transom water cooled exhaust unless a properly operating muffler is installed thereon.
- 9.4 No person shall operate a motor boat so as to cause noise which disturbs the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public.
- 9.5 Without limiting the generality of sections 7.1 to 8.1 and 9.1 to 9.4 of this bylaw, the following noises or sounds are considered by Council of the City of Kelowna to be liable to disturb the quiet, peace, enjoyment, comfort or convenience of individuals or the public:
- (a) any noise or sounds, the occurrence of which extends continuously or intermittently for fifteen (15) minutes or more, created by the following:
 - (i) a gathering of two or more persons, where at least one (1) human voice is raised beyond the level of ordinary conversation;
 - (ii) barking, howling or any other sound by a dog that is kept or harboured; and
 - (iii) yelling, shouting or screaming,
 - (b) any noises or sounds produced within or outside a **motor vehicle** and created by:
 - (i) the vehicle's engine or exhaust system when such noises or sounds are loud, roaring or explosive;
 - (ii) a **motor vehicle** horn or other warning device except when authorized by law; and

- (iii) a **motor vehicle** operated in such a manner that the tires squeal, and
- (c) noise or sound generated from the operation of a power lawn mower or power garden tool before 0700 hours or after 2100 hours on any day.

10 Compliance Orders

- 10.1 Pursuant to section 154 (1) (b) of the *Community Charter*, Council of the City of Kelowna delegates to the **bylaw supervisor** its powers, duties and functions to require that something be done to remedy a contravention of this bylaw.
- 10.2 Where a condition exists that is a contravention of any of the provisions in sections 4 and 5 of this bylaw, the **bylaw supervisor** may issue an **order to comply** requiring the person to remedy the nuisance or non-compliance within fourteen (14) days of deemed service or ten (10) days in the case of a contravention of section 5.3 of this bylaw, or on a date the **bylaw supervisor** considers reasonable in the circumstances if in the opinion of the **bylaw supervisor** a further period of time is required due to:
 - (a) the quantity of **rubbish** or other material or amount of **graffiti** to be removed;
 - (b) any disability or physical limitations of the person to whom the **order to comply** is directed; or
 - (c) weather conditions at the time of issuing an **order to comply**.
- 10.3 An **order to comply** may be served on an **owner** or occupier of **real property** and is deemed to be served when the City has:
 - (a) mailed, by registered mail, a copy of the **order to comply** to the address of the **owner** shown on last revised **real property** assessment roll;
 - (b) delivered a copy of the **order to comply** to the **owner** of the **real property** at the address shown on the last revised real property assessment roll;
 - (c) placed the **order to comply** in a mailbox or other receptacle for the receipt of mail on the **real property**; or
 - (d) posted a copy of the **order to comply** on the **real property**.
- 10.4 Every person shall comply with an **order to comply**.
- 10.5 If the nuisance or non-compliance in an **order to comply** has not been remedied by the date specified therein set out and the **owner** has had an opportunity to be heard in respect of the matter, the City, by its employees, contractors and agents may enter the **real property** and effect compliance with the **order to comply** at the expense of the **owner**. The **bylaw supervisor** shall certify to the **revenue supervisor** all costs incurred by the City in effecting compliance, and such costs shall constitute a debt due and owing by December 31 in the year compliance was effected and, if unpaid by December 31, the cost shall be added to and form part of the taxes for the **real property** as taxes in arrears.

11. Enforcement

- 11.1 The provisions of this bylaw may be enforced by any **bylaw enforcement officer** and members of the Royal Canadian Mounted Police.

12. Penalty

12.1 Every person who violates any provisions of this bylaw or who suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this bylaw or who neglects to do or refrains from doing anything required to be done by any of the provisions of this bylaw, or who does any act which constitutes an offence against the bylaw is guilty of an offence against this bylaw and liable to the penalties hereby imposed. Each day that the violation continues to exist, shall constitute a separate offence;

Every person who commits an offence against this bylaw is liable on conviction, to a minimum fine of not less than \$100.00 and a maximum fine of not more than \$10,000 in the case of a conviction or a term of incarceration for a period of not more than ninety (90) days, or both. Any penalty imposed pursuant to this bylaw shall be in addition to, and not in substitution for, any other penalty or remedy imposed pursuant to any other applicable statute, bylaw or legislation.

13. Repeat Service Calls

13.1 Where a **bylaw enforcement officer** or member of the RCMP are required to respond to **real property** for more than three **nuisance service calls** within any twelve (12) month period, the **owner** of the **real property** shall pay a Nuisance Abatement Fee for each **nuisance service call** in excess of three within any twelve (12) month period.

13.2 Despite section 13.1 of this bylaw, where legal title to the **real property** is transferred, **nuisance service calls** occurring before the date the new **owner** obtains legal title to the **real property** shall not apply to the determination under section 13.1 of this bylaw whether **Nuisance Abatement Fees** are payable or with respect to the amount that is payable.

13.3 Before an **owner** of **real property** is liable to pay a **Nuisance Abatement Fee**, the City shall provide written notice to the **owner** that:

- (a) describes the nature of the contravention or nuisance conduct, activity or condition; and
- (b) advises the **owner** of **Nuisance Abatement Fees** and that such fees are in addition to the City's right to seek other legal remedies or actions for abatement of the nuisance or contravention.

13.4 Service of the notice under section 13.3 of this bylaw may be effected and is deemed to have been served in the manner provided for in section 10.3 of this bylaw.

13.5 **Nuisance Abatement Fees** shall be paid by the **owner** within fourteen (14) days of receipt of an invoice from the City.

13.6 The City may impose a **Nuisance Abatement Fee** despite a person not being charged with an offence relating to the nuisance or contravention, a person charged with an offence relating to a nuisance or contravention being acquitted of any or all charges or if the charges are withdrawn, stayed or otherwise do not proceed.

14. Entry and Inspection

- 14.1 The **bylaw supervisor** and **bylaw enforcement officers** may enter at all reasonable times on any **real property** that is subject to this bylaw to ascertain whether the requirements of this bylaw are being met and the regulations in this bylaw are being observed and no person shall interfere with, hinder or obstruct the **bylaw supervisor** or a **bylaw enforcement officer** from doing so.

15. Severability

- 15.1 If a section, subsection, sentence, clause or phrase of this bylaw is for any reason held to be invalid by the decision of a Court of competent jurisdiction, it shall be severed and such decision shall not affect the validity of the remaining portions of this bylaw.

16. Effective Date

- 16.1 This bylaw shall take full force and effect as and from the date of adoption.

17. Repeal

- 17.1 City of Kelowna "Kelowna Noise and Disturbances Control Bylaw No. 6647" and all amendments thereto, are hereby repealed.
- 17.2 City of Kelowna "Residential Nuisance Bylaw No. 7782" and all amendments thereto, are hereby repealed.
- 17.3 City of Kelowna "Unsightly Premises and Visual Nuisance Bylaw No. 8217" and all amendments thereto, are hereby repealed.
- 17.4 City of Kelowna "Anti-Litter Bylaw, 1972, No. 3477" and all amendments thereto, are hereby repealed.

Read a first, second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

SCHEDULE "A"

NUISANCE ABATEMENT FEES

- 1) Nuisance service call response fee: \$250.00 per response by City of Kelowna, Bylaw Enforcement;
- 2) Nuisance service call response fee: \$250.00 per response by RCMP;
- 3) Nuisance service call response fee: \$250.00 per response by Kelowna Fire Department.

CITY OF KELOWNA

BYLAW NO. 11503

Amendment No. 18 to Bylaw Notice Enforcement Bylaw No. 10475

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts that the City of Kelowna Bylaw Notice Enforcement Bylaw No. 10475 be amended as follows:

1. THAT Schedule "A", **Kelowna Noise and Disturbances Control Bylaw No.6647**, be deleted in its entirety that reads:

Bylaw No.	Section	Description	A1 Penalty	A2 Early Payment Penalty	A3 Late Payment Penalty	A4 Compliance Agreement Available (*Maximum 50% Reduction in Penalty Amount Where Compliance Agreement is Shown as "Yes")
Kelowna Noise and Disturbances Control Bylaw No.6647						
6647	3.1	Permit noise to disturb the neighbourhood	\$500.00	\$450.00	\$500.00	Yes
6647	3.2	Permit noise from real property to disturb any person	\$500.00	\$450.00	\$500.00	Yes
6647	3.3	Operate a radio, stereophonic equipment or instrument to disturb any person	\$500.00	\$450.00	\$500.00	Yes
6647	3.4	Harbour any animal or bird which disturbs the neighbourhood	\$500.00	\$450.00	\$500.00	Yes
6647	3.5	construction noise before 0700 hours or after 2200 hours	\$500.00	\$450.00	\$500.00	Yes
6647	3.10	Participate in fight or physical confrontation	\$250.00	\$225.00	\$275.00	Yes
6647	4.1	Launch a motor boat without an adequate exhaust system	\$500.00	\$450.00	\$500.00	No
6647	4.2	Operate a motor boat without an adequate exhaust system	\$500.00	\$450.00	\$500.00	No

6647	4.3	Operate motor boat with stacks or dry headers	\$500.00	\$450.00	\$500.00	No
6647	4.4	Operate motor boat without proper muffler	\$500.00	\$450.00	\$500.00	No
6647	4.5	Operate motor boat without proper muffler	\$500.00	\$450.00	\$500.00	No
6647	4.6	Operate a motor boat causing noise which disturbs persons in the vicinity	\$500.00	\$450.00	\$500.00	No

2. AND THAT Schedule "A", **Unsightly Premises Bylaw No. 8217**, be deleted in its entirety that reads:

Bylaw No.	Section	Description	A1 Penalty	A2 Early Payment Penalty	A3 Late Payment Penalty	A4 Compliance Agreement Available (*Maximum 50% Reduction in Penalty Amount Where Compliance Agreement is Shown as "Yes")
Unsightly Premises Bylaw No. 8217						
8217	3.1	Permit accumulation of rubbish on premises	\$100.00	\$90.00	\$110.00	Yes
8217	3.1	Permit accumulation of noxious matter on premises	\$100.00	\$90.00	\$110.00	Yes
8217	3.1	Permit accumulation of offensive matter on premises	\$100.00	\$90.00	\$110.00	Yes
8217	3.1	Permit accumulation of unwholesome matter on premises	\$100.00	\$90.00	\$110.00	Yes
8217	3.2	Deposit rubbish in open place	\$100.00	\$90.00	\$110.00	No
82.17	3.3	Permit visual nuisance on premises	\$100.00	\$90.00	\$110.00	Yes
8217	3.4	Place graffiti on property	\$500.00	\$450.00	\$500.00	No
8217	3.5	Permit property to become/remains unsightly	\$500.00	\$450.00	\$500.00	Yes
8217	3.6	Obstruct a Bylaw Enforcement Officer	\$500.00	\$450.00	\$500.00	No

3. AND THAT Schedule "A", **Unsightly Premises Bylaw No. 8217**, be deleted in its entirety that reads:

Bylaw No.	Section	Description	A1 Penalty	A2 Early Payment Penalty	A3 Late Payment Penalty	A4 Compliance Agreement Available (*Maximum 50% Reduction in Penalty Amount Where Compliance Agreement is Shown as "Yes")
RESIDENTIAL NUISANCE BYLAW NO. 7782						
7782	5.1	Permit contamination	\$100.00	\$90.00	\$110.00	No
7782	7.1	Obstruct Entry of Inspector	\$500.00	\$450.00	\$500.00	No

4. AND THAT Schedule "A" be amended by adding a new section for Good Neighbor Bylaw No. 11500 as attached to and forming part of this bylaw as Attachment A.
5. This bylaw may be cited for all purposes as "Bylaw No. 11503 being Amendment No. 19 to Bylaw No. Bylaw Notice Enforcement Bylaw No. 10475."
6. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first, second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

Attachment A

Bylaw No.	Section	Description	A1 Penalty – First Offence	A2 Early Payment Penalty – First Offence	A3 Late Payment Penalty – First Offence	A4 Penalty – second and subsequent offences	A5 Early Payment - second and subsequent offences Payment Penalty	A6 Late Payment Penalty – second and subsequent offences	A7 Compliance Agreement Available (*Maximum 50% Reduction in Penalty Amount Where Compliance Agreement is Shown as "Yes")
Good Neighbour Bylaw No. 11503									
11503	4.2	Owner of real property remain unsightly	\$500.00	\$450.00	\$500.00	\$500.00	\$450.00	\$500.00	Yes
11503	4.3a	Permit accumulation of rubbish on premises	\$100.00	\$90.00	\$110.00	\$100.00	\$90.00	\$110.00	Yes
11503	4.3a	Permit compost that is not closed and sealed	\$100.00	\$90.00	\$110.00	\$100.00	\$90.00	\$110.00	Yes
11503	4.3b	Permit derelict motor vehicle, vehicle, boat or trailer on real property	\$500.00	\$450.00	\$500.00	\$500.00	\$450.00	\$500.00	Yes
11503	4.3c	Permit accumulation of noxious, offensive or unwholesome materials, substance or objects	\$500.00	\$450.00	\$500.00	\$500.00	\$450.00	\$500.00	Yes

Bylaw No.	Section	Description	A1 Penalty – First Offence	A2 Early Payment Penalty – First Offence	A3 Late Payment Penalty – First Offence	A4 Penalty – second and subsequent offences	A5 Early Payment - second and subsequent offences Payment Penalty	A6 Late Payment Penalty – second and subsequent offences	A7 Compliance Agreement Available (*Maximum 50% Reduction in Penalty Amount Where Compliance Agreement is Shown as "Yes")
Good Neighbour Bylaw No. 11503									
11503	4.3d	Permit accumulation of building materials	\$500.00	\$450.00	\$500.00	\$500.00	\$450.00	\$500.00	Yes
11503	4.2	Permit contamination of the atmosphere	\$500.00	\$450.00	\$500.00	\$500.00	\$450.00	\$500.00	Yes
11503	5.1	Place graffiti on wall, building, fence or other structure	\$500.00	\$450.00	\$500.00	\$500.00	\$450.00	\$500.00	No
11503	5.2	Permit graffiti on utility kiosk, customer service box or dumpster	\$500.00	\$450.00	\$500.00	\$500.00	\$450.00	\$500.00	No
11503	5.3	Permit graffiti on real property adjacent to street or public space	\$500.00	\$450.00	\$500.00	\$500.00	\$450.00	\$500.00	Yes
11503	5.4	Permit graffiti on a motor vehicle	\$100.00	\$90.00	\$110.00	\$100.00	\$90.00	\$110.00	Yes
11503	6.1	Cause or place graffiti on street or public space	\$500.00	\$450.00	\$500	\$500.00	\$450.00	\$500.00	No
11503	6.2a	urinate or defecate on street or public space	\$100.00	\$90.00	\$110.00	\$100.00	\$90.00	\$110.00	No

Bylaw No.	Section	Description	A1 Penalty – First Offence	A2 Early Payment Penalty – First Offence	A3 Late Payment Penalty – First Offence	A4 Penalty – second and subsequent offences	A5 Early Payment - second and subsequent offences Payment Penalty	A6 Late Payment Penalty – second and subsequent offences	A7 Compliance Agreement Available (*Maximum 50% Reduction in Penalty Amount Where Compliance Agreement is Shown as "Yes")
Good Neighbour Bylaw No. 11503									
11503	6.2b	sleep in a motor vehicle on or public space	\$100.00	\$90.00	\$110.00	\$100.00	\$90.00	\$110.00	No
11503	6.2c	Participate in violent confrontation or struggle	\$250.00	\$225.00	\$275.00	\$250.00	\$225.00	\$275.00	No
11503	6.3a	Dispose materials that may injure any person, animal or vehicle	\$500.00	\$450.00	\$500.00	\$500.00	\$450.00	\$500.00	No
11503	6.3b	Place paper or other material on motor vehicle	\$250.00	\$225.00	\$275.00	\$500.00	\$450.00	\$500.00	No
11503	6.3c	Cut, remove or damage tree, shrub, flower plant, bush or hedge	\$100.00	\$90.00	\$110.00	\$100.00	\$90.00	\$110.00	No
11503	6.3d	Damage street lighting	\$500.00	\$450.00	\$500.00	\$500.00	\$450.00	\$500.00	No
11503	6.3e	Contaminate & harm bushes, shrubs, trees or grass situate	\$500.00	\$450.00	\$500.00	\$500.00	\$450.00	\$500.00	No

Bylaw No.	Section	Description	A1 Penalty – First Offence	A2 Early Payment Penalty – First Offence	A3 Late Payment Penalty – First Offence	A4 Penalty – second and subsequent offences	A5 Early Payment - second and subsequent offences Payment Penalty	A6 Late Payment Penalty – second and subsequent offences	A7 Compliance Agreement Available (*Maximum 50% Reduction in Penalty Amount Where Compliance Agreement is Shown as “Yes”)
Good Neighbour Bylaw No. 11503									
11503	6.3f	Placing paper materials without the permission of the City	\$250.00	\$225.00	\$275.00	\$500.00	\$450.00	\$500.00	Yes
11503	6.3g	Place or accumulate grass cuttings, leaves or rubbish	\$250.00	\$225.00	\$275.00	\$500.00	\$450.00	\$500.00	No
11503	7.1	Permit noise to disturb the neighbourhood	\$250.00	\$225.00	\$275.00	\$500.00	\$450.00	\$500.00	Yes
11503	7.2	Permit noise from real property to disturb any person	\$250.00	\$225.00	\$275.00	\$500.00	\$450.00	\$500.00	Yes
11503	7.3	Operate sound amplification equipment or instrument to disturb any person	\$250.00	\$225.00	\$275.00	\$500.00	\$450.00	\$500.00	Yes
11503	7.4	Harbour any animal or bird which disturbs the neighbourhood	\$250.00	\$225.00	\$275.00	\$500.00	\$450.00	\$500.00	Yes
11503	8.1	construction noise before 0700 hours or after 2100 hours	\$500.00	\$450.00	\$500.00	\$500.00	\$450.00	\$500.00	Yes
11503	9.1	Launch a motor boat without an adequate exhaust system	\$100.00	\$90.00	\$110.00	\$100.00	\$90.00	\$110.00	No

Bylaw No.	Section	Description	A1 Penalty – First Offence	A2 Early Payment Penalty – First Offence	A3 Late Payment Penalty – First Offence	A4 Penalty – second and subsequent offences	A5 Early Payment - second and subsequent offences Payment Penalty	A6 Late Payment Penalty – second and subsequent offences	A7 Compliance Agreement Available (*Maximum 50% Reduction in Penalty Amount Where Compliance Agreement is Shown as "Yes")
Good Neighbour Bylaw No. 11503									
11503	9.2	Operate motor boat with stacks or dry headers	\$100.00	\$90.00	\$110.00	\$100.00	\$90.00	\$110.00	No
11503	9.3	Operate a motor boat powered by an engine with exhausting devices	\$100.00	\$90.00	\$110.00	\$100.00	\$90.00	\$110.00	No
11503	9.4	Operate a motor boat to cause noise	\$100.00	\$90.00	\$110.00	\$100.00	\$90.00	\$110.00	No
11503	9.5(a)(i)	Noise or sounds exceeding 15 mins – two or more people – raised voices	\$100.00	\$90.00	\$110.00	\$100.00	\$90.00	\$110.00	No
11503	9.5(a)(ii)	Noise or sounds exceeding 15 mins – barking or howling of harbored dog	\$100.00	\$90.00	\$110.00	\$100.00	\$90.00	\$110.00	No
11503	9.5(a)(iii)	Noise or sounds exceeding 15 mins – yelling or screaming	\$100.00	\$90.00	\$110.00	\$100.00	\$90.00	\$110.00	No
11503	9.6(b)(i)	Exhaust system noise	\$100.00	\$90.00	\$110.00	\$100.00	\$90.00	\$110.00	No
11503	9.6(b)(ii)	Horn or alarm noise	\$100.00	\$90.00	\$110.00	\$100.00	\$90.00	\$110.00	No
11503	9.6(b)(iii)	Tire squeal noise	\$100.00	\$90.00	\$110.00	\$100.00	\$90.00	\$110.00	No
11503	9,6(c)	Lawn mower or power tool noise before 0700 or after 2100	\$100.00	\$90.00	\$110.00	\$250.00	\$225.00	\$250.00	Yes
11503	14.1	Obstruct a Bylaw Enforcement Officer	\$500	\$450	\$500.00	\$500.00	\$450.00	\$500.00	No

Report to Council



Date: October 30, 2017
File: 0110-01
To: City Manager
From: Janine Taylor, Sponsorship & Advertising Manager
Subject: Corporate Sponsorship & Advertising Policy, No. 376

Recommendation:

THAT Council receives for information the report from the Sponsorship & Advertising Manager dated October 30, 2017 regarding the establishment of a Corporate Sponsorship & Advertising Policy;

AND THAT Council approve the City of Kelowna Corporate Sponsorship & Advertising Policy No. 276 as attached to this report.

Purpose:

To set policy and guide the work of the Corporate Sponsorship & Advertising pilot program for the City of Kelowna, which will seek to generate revenue through qualified sponsorships to enhance facilities and services for residents.

Background:

In the report dated Nov. 22, 2016, City Council was presented with the City of Kelowna Corporate Sponsorship & Advertising program guidelines and draft policy. The pilot program was approved and funded through the regular budget process, and the draft policy was approved in principal with a resolution to return with the final Corporate Sponsorship and Advertising Policy after the Sponsorship and Advertising Manager was hired. The position started in August 2017.

The purpose of the corporate sponsorship and advertising policy is to create an authorized environment and city-wide protocol for sponsorship and advertising that establishes the conditions under which the City will pursue and/or accept corporate sponsorship and advertising.

The policy is based primarily on best practices and recommendations from Partnership Group and has not changed substantially since Council reviewed the draft policy in 2016. Highlights include:

- The policy applies to all City owned and operated assets

- City Council will have approval on naming rights, as per related policies stated below
- Corporate sponsorship and advertising must be mindful and respectful of the community associated with each asset so as not to disrupt or interfere with the experience of the asset
- Revenue from the program may only be used to supplement City-approved initiatives (new capital projects, capital renewal projects, new or enhanced programs and special projects)
- The Sponsorship Manager is responsible for overall direction of the program including: Strategy, interdepartmental team, prospect clearance process, asset inventory and valuation, reporting and community capacity building
- The responsibilities section was removed from the draft as they are all covered under existing policies and the Community Charter; the section was deemed redundant

Next Steps:

- Develop Corporate Sponsorship and Advertising strategy
- Continue lead generation
- Build-out asset inventory
- Activate sponsorships from qualified sponsors

Existing Policy:

There are several existing policies related to Sponsorship and Advertising. During the first year of the sponsorship and advertising program, these policies will be reviewed and updated for consistency in cooperation with their owner departments. These include:

- Commemorative Recognitions in City Parks No. 242 - completed
- City of Kelowna Park Naming Policy No. 251
- Naming of Kelowna Awards in Memory of Individual Citizens No. 256
- Charitable Donations and Gifts to the City Policy No. 306
- City of Kelowna Civic Community Facilities Naming Policy No. 343

Internal Circulation:

Financial Planning Manager
Purchasing Manager

Legal:

The policy has been reviewed by the City's solicitors.

Alternate Recommendation:

Considerations not applicable to this report:

Legal/Statutory Authority:

Legal/Statutory Procedural Requirements:

Financial/Budgetary Considerations:

Personnel Implications:

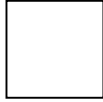
External Agency/Public Comments:

Communications Comments:

Submitted by:

J. Taylor, Sponsorship & Advertising Manager

Approved for inclusion:



cc:

Stephen Fleming, City Clerk

Karen Needham, Deputy City Clerk

Darren Tompkins, Purchasing Manager

George King, Financial Planning Manager

Genelle Davidson, Divisional Director, Financial Services



City of Kelowna
1435 Water Street
Kelowna, BC V1Y 1J4
250 469-8500
kelowna.ca

Council Policy

CORPORATE SPONSORSHIP AND ADVERTISING

ESTABLISHED: October 16, 2017

Contact Department: Corporate Sponsorship & Advertising

Guiding Principle

To generate revenue used to enhance facilities, programs and services for residents, the City welcomes corporate sponsorship and advertising from qualified businesses and organizations whose support aligns to the City's mission, values and priorities.

The City of Kelowna is open to creating opportunities through strategic partnerships with community groups, non-profit organizations, the private sector and other levels of government to improve services and amenities.

Purpose

To create a framework for corporate sponsorship and advertising that will supplement City funding for its facilities, programs and services.

Application

This policy applies to all City owned and operated assets, where assets are defined broadly as property, including but not limited to:

- Real property (facilities/green space/parks)
- Property features and components (rooms/playgrounds/ice surfaces)
- Events, special projects, programs and services
- Communications (publications/digital communication channels)
- Other relevant properties

The policy does not apply to:

- Public-private partnerships (i.e. RG Properties and Prospera Place)
- City owned facilities, programs and services that are operated by another organization except as outlined in operating, use, lease or service level agreements with the organization
- Philanthropic contributions, gifts or donations
- Grants obtained from other levels of government, foundations or trusts
- City sponsorship of external projects, programs or events where the City provides funds to an outside organization
- Street names

Policy Statements

1.0 General

- Sponsorship relationships are defined under this policy as mutually beneficial experiential business relationships where a corporation or organization provides a rights fee in cash or value in-kind arrangement in return for recognition, acknowledgement or other promotional benefits.
- Advertising is defined as the sale or lease of City owned property or space and is accepted as a commodity transaction rather than a partnership. Unlike sponsorship, where there is an associative value, advertising and the commercial use of City space is based on market rates. Advertisers are not entitled to additional benefits beyond the space being purchased.
- Corporate sponsorship and advertising revenue may only be accepted to supplement City-approved initiatives.
- Corporate sponsorship and advertising must not unduly detract from the character, integrity, aesthetic quality or safety of a City asset or unreasonably interfere with its enjoyment or use.
- In return for cash or value in-kind consideration, a sponsor shall receive benefits commensurate with the assessed fair market value of an asset being sponsored.
- The City does not endorse the products, services or ideas of any corporate sponsor or advertiser.

2.0 Requirements

- Corporate sponsorships are associative in nature and therefore alignment to City values is necessary
- Corporate sponsorship and advertising must be mindful and respectful of the community associated with the asset so as not to disrupt or interfere with the experience of the asset
- Sponsorship and advertising activities will be conducted in the spirit of transparency, but a formal competitive process is not required when soliciting or accepting sponsorship or advertising opportunities
- Sponsorships shall take into consideration City capacity implications on staffing and financial resources
- Corporate sponsorship and advertising must comply with the City's visual identity guidelines
- Written agreements will be signed for every sponsorship and advertising deal, providing full details about the relationship and the exchange of value and assets

3.0 Sponsorship and Advertising Criteria

- The City will consider all sponsorship proposals but retains the discretion not to accept sponsorship from any entity at its sole discretion
- Corporate sponsorships and advertising must conform to all applicable federal and provincial statutes and all applicable City bylaws, policies and practices
- Sponsorship and advertising must not confer a personal benefit, directly or indirectly, to any particular City employee or official
- The City shall retain ownership and control over all City owned and operated assets
- Benefits provided to the sponsor by the City are limited to those stated in the sponsorship agreement
- Corporate sponsorship must not result in any competitive advantage, benefit or preferential treatment for the sponsor outside of the sponsorship agreement
- Category exclusivity rights provide exclusivity rights to the asset being sponsored and does not imply exclusivity privileges with the City itself
- Category exclusivity rights to an asset do not flow through to third-party users of City assets (i.e. Festivals Kelowna or other users) except as outlined in operating, use, lease or service level agreements for the City asset

4.0 Restrictions

- Corporate sponsorship and advertising within a City facility must reflect the target audiences associated with the facility
- The City will not solicit or accept corporate sponsorship or advertising from companies or organizations whose business:
 - Contradict any bylaw or policy of the City in any way
 - Could compromise the reputation of the City's public image
 - In light of prevailing community standards, it is likely to cause deep or widespread offence
- For assets that are geared toward children and youth, the City will not solicit or accept corporate sponsorship or advertising from companies or organizations that produce alcohol or other addictive substances
- The City will not solicit or accept corporate sponsorship or advertising from companies or organizations:
 - Whose business is derived from the production of tobacco
 - Whose business is derived from pornography or illegal sexual services
 - Whose business is derived from armaments and weapons manufacturing
 - Who are not in good standing with the City (i.e. currently in violation of a by law or under litigation)
 - Discriminate by way of race, religion or sex in employment, marketing or advertising practices
- To protect the privacy of Kelowna residents, sponsors are not to have access to personal information held by the City
- There shall be no actual or implied obligation for the City to purchase products or services from the sponsor

5.0 Fund Allocation

- Funds received by the City Sponsorship and Advertising program will not be used to service capital debt
- For Transit (bus bench and shelter, as well as on-bus advertising), the Airport, Civic Awards and Bike to Work Week assets, will continue to be allocated to the asset
- For overarching facility naming rights are to be used for the maintenance and enhancement of the named asset, as well as for supporting programs and services directly related to the asset
- The net operating surplus of the Sponsorship & Advertising program for all other assets will be transferred to the Sponsorship and Advertising General Reserve

- The Sponsorship and Advertising General Reserve will be used for new capital projects, capital renewal projects, new or enhanced programs and special projects

6.0 Evaluation

- Sponsorship and advertising opportunities will be evaluated on an asset by asset basis to determine fit and alignment, and to assess that all provisions in the policy are satisfied
- General ethical scans will be conducted on all companies and organizations, with in-depth scans conducted for sponsorship agreements of \$10,000 or more in value; if the scan returns an unsatisfactory result, the sponsorship or advertising opportunity will not be pursued

7.0 Review

- An annual report will be provided to Council on the performance of the Corporate Sponsorship and Advertising Program

Related Council Policies

Commemorative Recognitions in City Parks No. 242

City of Kelowna Park Naming Policy Number No. 251

Naming of Kelowna Awards in Memory of Individual Citizens No. 256

Charitable Donations and Gifts to the City Policy No. 306

City of Kelowna Civic Community Facilities Naming Policy Number No. 343

Amendments

None



Corporate sponsorship & advertising policy

October 30, 2017



Where we have been

November 2016

Draft policy & guidelines

PILOT PROGRAM

Program start: August 2017

Purpose



City-wide protocol

Clear & established conditions

Practice

BEST PRACTICES

Partnership Group

Community groups

Other cities




The policy

- ▶ City owned and operated
- ▶ Naming rights
- ▶ Mindful & respectful
- ▶ Exclusivity



The policy

- 
- ▶ Sponsorship & Advertising Manager
 - ▶ Reserve fund
 - ▶ City-approved initiatives
 - ▶ New, renew, enhance

The background of the slide is a wide-angle photograph of an indoor ice hockey rink. In the foreground, a hockey goal with a red and white net is visible. A player in a red jersey is in motion, having just taken a shot or about to. Other players in various colored jerseys are scattered across the ice in the middle ground. The rink is enclosed by a blue and white safety barrier. The ceiling is high with a series of bright, recessed lights. The overall scene is active and captures a moment during a game or practice.

Up next

Work plan

Lead generation

Asset inventory

Annual review with Council

Questions?



Report to Council



Date: October 30, 2017
File: 1890-01
To: City Manager
From: Kevin Van Vliet, Utility Services Manager
Subject: Community Engagement Process – Agricultural water rate design

Recommendation:

THAT Council receive for information the report from the Utility Services Manager dated October 30, 2017 with respect to the engagement process for reviewing the Agriculture Water Rate Design.

AND THAT Council directs staff to proceed with the communications and engagement process for gathering feedback and preferences on agriculture water rate design as outlined in the report from the Utility Services Manager dated October 30, 2017.

Purpose:

To inform Council of the engagement strategy to inform consideration of a new water rate design for agricultural customers.

Background:

With more than 12,000 hectares of the City's land base zoned agriculture, agriculture is integral to the history and identity of Kelowna and is a key consideration in the City's community planning, economic development and environmental sustainability. During the engagement process for the recently endorsed Agriculture Plan, water was identified as a concern by growers and residents. To that end the Agriculture Plan identified two actions for ongoing and long-term implementation which the upcoming engagement is also consistent with, namely:

- 2a: Evaluate and monitor City of Kelowna water pricing with the goal of sustaining agriculture and;
- 2f: Continue to work towards ensuring sustainable, redundant and secure water for all agriculture.

The pending transition of Southeast Kelowna (SEKID) and South Okanagan Mission Irrigation District (SOMID) customers into the City system and the separation of the irrigation and domestic water supplies has resulted in the need for the City to review its agriculture rate and rate design to ensure fair rates that encourage conservation and support farming operations.

The City of Kelowna water utility currently has sixteen customers (as of January 2017) that are in the “Agricultural” customer class. City agricultural customers pay a fee of \$0.114 per cubic metre for all water consumed on the property. There is no additional fee for a residence. In contrast, SOMID currently charges a fixed fee per acre of land that has been allocated water. SEKID farmers pay a fixed fee per acre and then additional fees if they exceed their allocation. Residences in SEKID pay a separate, additional water fee. Fixed fees per acre of land provides more stability to the farmer in predicting costs but little incentive to use less than their given allocation. On a spectrum of charging for water, the City and SOMID rate models are at opposite ends. In the middle are many options that combine a fixed component with a variable component based on water use, such as the system used for City of Kelowna residential and commercial customer classes, and using increasing prices for increased use (used in Kelowna and SEKID).

Incorporation of SEKID’s and SOMID’s agricultural customers into the City of Kelowna water utility necessitates that the City’s current agricultural rate design be changed. The City has committed to consulting with the agricultural community and reporting back to Council on what might be a more appropriate rate design. While SEKID will continue to set the irrigation rates for customers in 2018 and 2019, we hope to give customers assurance and advance notice of any changes to the rate design that may affect them and are therefore planning consultation to occur this fall and winter.

Engagement Process:

The communication and engagement process seeks to understand water pricing values, priorities, concerns and impacts in order to outline options for an agriculture rate structure and provide Council with recommendations on a preferred option moving forward after 2019.

In all forms of consultation, emphasis will be placed on considering both collective and individual needs, ensuring all voices are heard and analyzing the range of issues. Guided by an engagement plan reflecting the City’s Public Engagement Guiding Principles and Engage Policy, staff will facilitate meaningful dialogue amongst stakeholders across the community, not just SEKID customers, as any current or potential City agriculture customers will also be affected by any rate design adopted. Opportunities for a broader discussion by all members of the community will also be available.

The goals of the engagement process include:

- To inform customers and stakeholders with balanced and objective information to assist them in understanding cost of service and its principles
- To engage customers and stakeholders in the rate design process
- To create broader understanding of the value of the water utility and investment of customers in water resource stewardship
- To create understanding of the value and importance of water use efficiency and water conservation

A variety of direct in-person and online public consultation techniques will be used to reach a variety of stakeholders, identify issues and gather input for the plan.

The engagement process will start in mid-September and will be conducted as below. The consultation will focus on engaging the directly impacted agricultural customers but will provide opportunities for broader community and stakeholder input.

The following stakeholders have been identified as having either direct or indirect interest in the subject:

Direct interest:

SEKID Board of Directors
Agricultural Advisory Committee (AAC)
SEKID Agricultural Customers
Current City Agricultural Customers
SOMID Agricultural Customers
City Council

Indirect interest:

Industry Groups
Other Water Improvement Districts/Communities
Summerland Research and Development Centre
Regional District of Central Okanagan
First Nations

Activity:

Phase 1: Inform about plan and process

- Face- to- face Meetings (including SEKID Board, Agricultural Advisory Committee (AAC))
- Website Update
- Mail-out to stakeholders (including SEKID customers, current City customers, SOMID Customers)

Phase 2: Collect input

- Face- to- face Meetings (including SEKID Board, AAC)
- Online Engagement
- Stakeholder workshop by invitation
- Public Open House

Phase 3: Review and Report

- Council Workshop
- Report out of engagement results

Phase 4: Council Consideration

- Review 2018 engagement outcomes
- Recommendation and rationale for preferred rate design option
- Council to adopt rate design and set rates for 2020



Staff consulted with the SEKID Board of Trustees on September 21, 2017 on the proposed engagement process, and their feedback has been taken into consideration in the process design. Staff consulted with the Agricultural Advisory Committee (AAC) on October 12, 2017 at which time the AAC passed the following motion:

Moved by Yvonne Herbison/Seconded by Tarsem Goraya

THAT the Agricultural Advisory Committee recommends that Council support the City of Kelowna's engagement strategy to inform of a new water rate design for agricultural water customers in order to update the City's Water Regulation Bylaw No. 10550 as presented to the Committee on October 12, 2017.

Next Steps:

Staff anticipates reporting back to Council with a summary of the fall engagement in 2018 and will gather Council's input on the draft rate design arising from public and stakeholder feedback.

Internal Circulation:

Divisional Director - Infrastructure
Divisional Director – Financial Services
Community Engagement Manager
Senior Engineer - Infrastructure

Communications Comments:

Information on the project, background and on upcoming engagement opportunities will be available on the Kelowna Integrated Water – Phase 1 webpage at kelowna.ca/water.

Considerations not applicable to this report:

Legal/Statutory Authority:
Legal/Statutory Procedural Requirements:
Existing Policy:
Financial/Budgetary Considerations:
Personnel Implications:
External Agency/Public Comments:
Alternate Recommendation:

Submitted by:

K Van Vliet, Utility Services Manager

Approved for inclusion:



J Creron, Deputy City Manager

cc:

Community Engagement Manager
Senior Engineer - Infrastructure

Key Messages

- Integration with the City of Kelowna water utility offers greater long-term water supply and reliability, a stable rate structure and a separated supply for agricultural irrigation.
- The City recognizes the need to come up with a rate structure that is fair and sustainable for agricultural customers recognizing the importance of Agriculture, and plans to restructure and revise its current agriculture rate design
- SEKID will continue to set rates through 2019 and water rates for 2020 will be adopted by Kelowna City Council in 2019



Agricultural Water Rate Design Community Engagement Process

October 2017

Background

Recently endorsed Agriculture Plan identified two actions for ongoing and long-term implementation:

- Evaluate and monitor City of Kelowna water pricing with a goal of sustaining agriculture and;
- Continue to work towards ensuring sustainable, redundant and secure water for all agriculture

Rate Design

- ▶ City agricultural customers pay per cubic metre for all water consumed on property
 - ▶ Pay per use
- ▶ South East Kelowna Irrigation District customers pay a fixed fee per acre of land to an allocated volume. Pay per use if allocation exceeded
 - ▶ Pay per designated volume, pay per use if excessive
- ▶ SOMID customers pay a fixed fee per acre of land
 - ▶ Pay per acre, regardless of use

Community Consultation

- ▶ To inform with balanced and objective information
- ▶ To engage in the rate design process
- ▶ To create opportunities for input on rate design, billing cycle preferences and agricultural customer classifications
- ▶ To create understanding of the value of the water utility and investment of customers in water resource stewardship
- ▶ To create understanding of the value of water use efficiency and water conservation

Stakeholders

Direct Interest

- ▶ SEKID Board of Trustees
- ▶ Agricultural Advisory Committee
- ▶ SEKID Agricultural customers
- ▶ Current City Agricultural customers
- ▶ SOMID Agricultural customers

Indirect Interest

- ▶ Industry Groups
- ▶ Other Water Improvement Districts/Communities
- ▶ Summerland Research and Development Centre
- ▶ RDCO
- ▶ First Nations

Timelines



Next Steps

- ▶ Council consideration of engagement process
- ▶ Information, background and process outline on project webpage – Kelowna.ca/water
- ▶ Engagement summary and Council feedback on rate design in 2018
- ▶ Changes to Water Regulation Bylaw No 10550 proposed in 2019
- ▶ Agriculture customers transition to City utility and new rate design implemented 2020



Questions?

For more information, visit kelowna.ca.

Report to Council



Date: 2017-10-30

File: 0710-60

To: City Manager

From: Rafael Villarreal, Manager, Integrated Transportation

Subject: National Trade Corridor Fund Grant Application for Okanagan Gateway Transportation Plan

Report Prepared by: Ed Stephens, Senior Airport Development Manager

Recommendation:

THAT Council receives, for information, the report from the Manager, Integrated Transportation, dated October 30, 2017, with respect to the National Trade Corridor Fund Grant Application for the Okanagan Gateway Transportation Plan;

AND THAT Council endorses the grant application to the National Trade Corridor Fund for the Okanagan Gateway Transportation Plan grant application to the National Trade Corridor Fund for the Okanagan Gateway Transportation Plan;

AND THAT Council approve the amendment to the 2017 Financial Plan including the \$512,500 project with funding as detailed in the Financial/Budgetary Considerations portion of this report.

Purpose:

To receive Council's approval for the City of Kelowna's portion of the funding for the Okanagan Gateway Transportation Plan in order to submit a grant application to the 2017 National Trade Corridor Fund program.

Background:

The National Trade Corridor Fund (NTCF) is administered by Transport Canada, as part of the Investing in Canada Plan. This fund is for \$2 billion over 11 years, with \$400 million being available over the next 3 years. The focus of the NTCF is on:

- Investments in transportation assets that support economic activity and the movement of goods and people
- Addressing transportation bottlenecks, vulnerabilities and congestion
- Funding allocated to projects based on merit, with a focus on trade corridor efficiency and reliability

The objectives of the NTCF are:

- support the fluidity of Canadian trade by alleviating capacity constraints and bottlenecks, and strengthen modal interconnectivity and operability;
- increase the resilience of the Canadian transportation system to a changing climate and its adaptability to new technologies and future innovation;
- address the transportation needs of Northern communities, including safety and economic development; and
- leverage investments from multiple partners.

The NTCF submission process includes two application phases: Expression of Interest and Comprehensive Project Proposal. The City of Kelowna (City), including Kelowna International Airport (YLW), in collaboration with the Ministry of Transportation & Infrastructure (MOTI) and the University of British Columbia Okanagan (UBCO) have received acceptance of our Expression of Interest submission and are invited to submit a Proposal by November 6, 2017.

Overview:

The Okanagan Gateway is home to the Kelowna International Airport (YLW) and the University of British Columbia Okanagan Campus (UBCO); both facilities of regional and provincial significance. The region's primary north-south mobility corridor, for both people and trade, is British Columbia Provincial Highway 97. Hwy 97 extends from the US border, along the length of the Okanagan Valley to the Shuswap where it inter-connects with the Trans-Canada Highway before continuing as the province's primary north-south corridor to Northern British Columbia. YLW and its connection to Highway 97 form the primary air gateway to the Southern Interior for visitors and residents and are part of the National Airport System (YLW) and National Highway System (Highway 97, Airport Way).

Both UBCO and YLW have also experienced significant growth over the last decade; with passenger volumes through YLW growing by 25% over the last 5 years and UBCO expanding from just under 5,000 students in 2005 to just over 9,000 students in 2017. Aviation supporting services and other industrial and commercial development adjacent to the airport and university are also growing - forming a major center of high-value/skilled employment within the region.

Reflecting the collective regional and national benefits of a strong transportation network in the area, the proposed Okanagan Gateway Transportation Study (OGTS), is proposed as a funding partnership between the City of Kelowna, Kelowna International Airport, the British Columbia Ministry of Transportation and Infrastructure and the University of British Columbia Okanagan, with support by neighboring municipalities members of the Sustainable Transportation Partnership of the Central Okanagan.

Supporting the future growth of YLW, UBCO and surrounding lands will require improvements to the transportation network. While a range of potential network improvements have been previously identified within the context of individual initiatives, no comprehensive system focused transportation plan has been completed. The plan will consider the collective impacts of land use and transportation changes at a system level, promote a shift towards active and sustainable travel modes and be resilient to a changing climate and transport technology landscape.

The OGTS's primary objective will be to identify a future multi-modal transportation network for the Okanagan Gateway area. Improvement options will be assessed using a multiple account

decision framework and business case/net present value analysis to maximize net benefits - similar to other recent provincial projects. Project footprints will be developed to ensure required lands are protected while improvement costing will ensure financial viability. Ultimately the OGTS will seek to identify a future transportation network that supports the long-term success of YLW / UBCO and the future performance of Highway 97, while facilitating a shift towards transit, active and other sustainable travel modes.

Financial/Budgetary Considerations:

The NTCF Comprehensive Project Proposal due November 6, 2017 requires that applicant's funding contribution is secured with letters of commitment from named funding partners.

The breakdown of commitments on our Proposal will be:

Project Costs

Total Project Cost	\$512,500
Total Federal Funding Amount Requested Under NTCF	\$250,000
Matching funds from partners	\$262,500
Project Contributions by Applicant	
<ul style="list-style-type: none"> City of Kelowna Reserves <ul style="list-style-type: none"> Transportation \$25,000 YLW \$100,000 	\$125,000
<ul style="list-style-type: none"> BC Ministry of Transportation & Infrastructure 	\$112,500
<ul style="list-style-type: none"> University of British Columbia 	\$25,000

Internal Circulation:

Divisional Director, Infrastructure
Divisional Director, Finance
Airport Director, Kelowna International Airport
Communication Consultant, Communications & Information Services
Controller, Finance
Financial Planning Manager, Finance
Manager, Grants & Partnerships
Manager, Infrastructure Engineering
Senior Airport Finance and Corporate Services Manager, Kelowna International Airport
Transportation Engineering Manager

Considerations not applicable to this report:

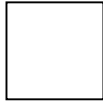
Legal/Statutory Authority:
Legal/Statutory Procedural Requirements:
Existing Policy:
Financial/Budgetary Considerations:
Personnel Implications:
External Agency/Public Comments:
Communications Comments:

Alternate Recommendation:

Submitted by:

R. Villarreal, Manager, Integrated Transportation

Approved for inclusion:

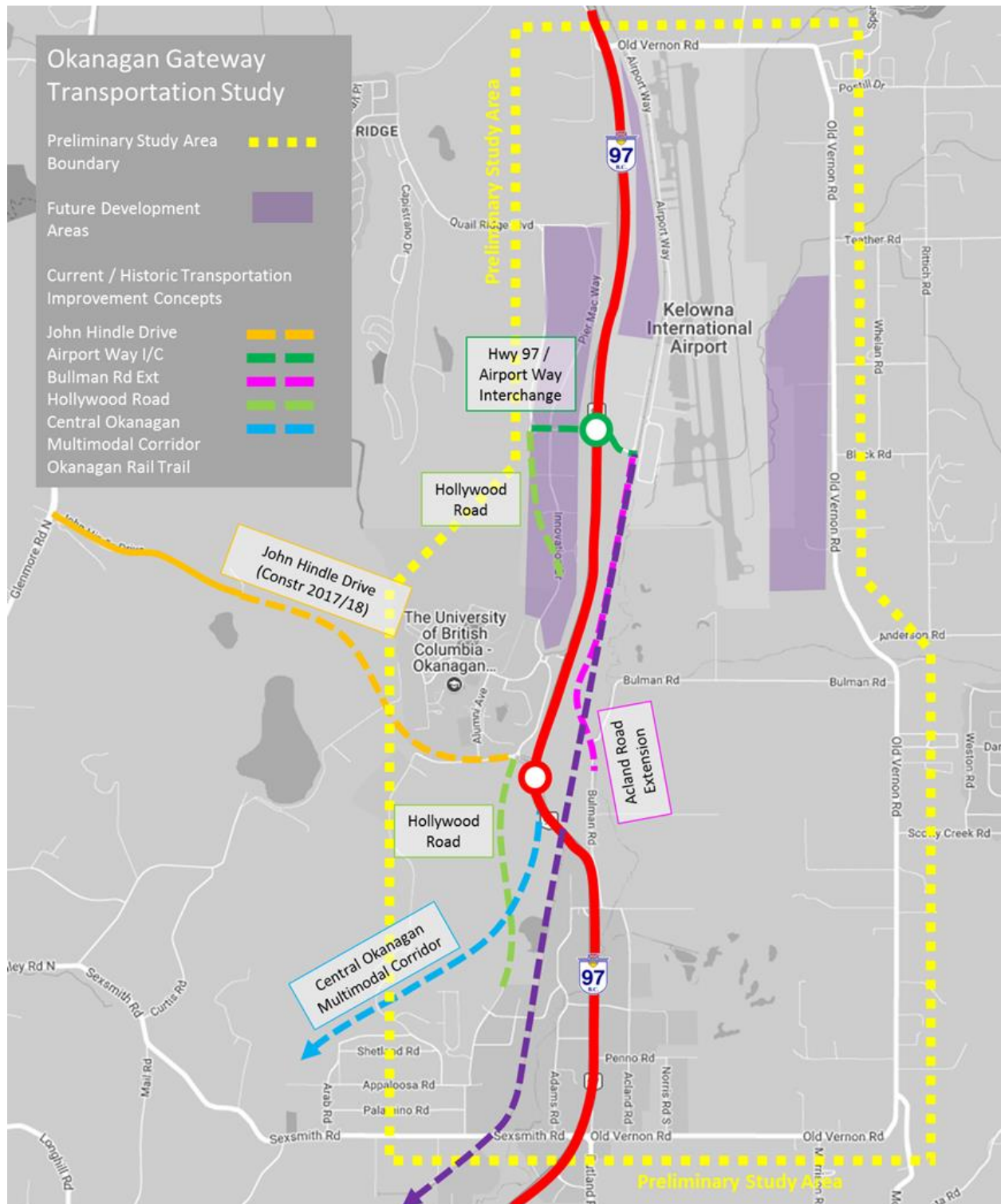


A. Newcombe, Director, Infrastructure

Appendix A - Okanagan Gateway Transportation Study map

cc: Divisional Director, Infrastructure
Divisional Director, Finance
Airport Director, Kelowna International Airport
Communication Consultant, Communications & Information Services
Controller, Finance
Financial Planning Manager, Finance
Manager, Grants & Partnerships
Manager, Infrastructure Engineering
Senior Airport Finance and Corporate Services Manager, Kelowna International Airport
Transportation Engineering Manager
Ministry of Transportation and Infrastructure
University of British Columbia Okanagan Campus

APPENDIX A – Okanagan Gateway Transportation Study Map



DRAFT RESOLUTION

Re: 2018 Council Meeting Schedule

Staff is recommending the following schedule for regular Council Meetings in 2018:

THAT the 2018 Council Meeting Schedule be adopted as follows:

Monday Regular Meetings

January 8, 15, 22 and 29
February 5, 19 and 26
March 5, 12, 19 and 26
April 9, 16, 23 and 30
May 7, 14 and 28
June 4, 11, 18 and 25
July 16 and 30
August 13 and 27
September 6*, 17 and 24
October 1
November 5*, 19 and 26
December 3, 10 and 13*

Public Hearing/Regular Meetings

January 9 and 23
February 6 and 20
March 6 and 20
April 10 and 17
May 1, 15 and 29
June 12 and 26
July 17 and 31
August 14 and 28
September 11 and 25
October 9
November 20
December 4

- * September 6th - Pre-Budget Council Meeting
- * November 5th - Inaugural Council Meeting
- * December 13th - 2019 Budget Deliberations

BACKGROUND:

The recommended schedule provides for thirty-three (33) Monday Council Meetings (excluding the September 6th Pre-Budget Council Meeting, the November 5th Inaugural Council Meeting, and the December 13th 2019 Budget Deliberations) and twenty-two (22) Public Hearing/Regular Council Meetings. As in previous years, the schedule accommodates Council's attendance and participation at the SILGA, FCM and UBCM annual conventions.

Date: October 30, 2017
File: 0610-50

 Monday Regular Meetings (9:00 am/1:30 pm)

 Public Hearing/Regular Meeting (6:00 pm)


 2019 Pre-Budget Meeting [Sept 6] (evening)

 2019 Budget Deliberations [Dec 13] (9:00 am)

 Summer Schedule

 Stat Holiday

 Civic Election

 Inaugural Council Meeting

Conventions:



SILGA: April 24 - 27 (Revelstoke)

FCM: May 31 - June 3 (Halifax)

UBCM: September 10 - 14 (Whistler)

Seminars:



LGLA 2017 Leadership Forum: January 31 - February 2 (Richmond)

New Council Orientation: October 25 (City of Kelowna)

JANUARY						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

FEBRUARY						
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25	26	27	28			

MARCH						
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25	26	27	28	29	30	31

APRIL						
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29	30					

MAY						
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27	28	29	30	31		

JUNE						
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JULY						
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22	23	24	25	26	27	28
29	30	31				

AUGUST						
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26	27	28	29	30	31	

SEPTEMBER						
S	M	T	W	T	F	S
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16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

OCTOBER						
S	M	T	W	T	F	S
	1	2	3	4	5	6
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14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

NOVEMBER						
S	M	T	W	T	F	S
				1	2	3
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11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

DECEMBER						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

DRAFT RESOLUTION

Re: Rescindment and Appointment to the Regional District of Central Okanagan's Board of Directors

THAT Council rescinds the appointment of Councillor Hodge as an alternate to the Regional District of Central Okanagan's Board of Directors effective November 9, 2017;

AND THAT Council appoints Councillor Hodge as a director to the Regional District of Central Okanagan's Board of Directors effective November 9, 2017.

BACKGROUND:

As a result of the amended population figures from the 2016 Census, the City of Kelowna is required to appoint one additional director to the Regional Board. This appointment must be done before the Board's inaugural meeting scheduled for November 9, 2017.

Council representation on various external committees requires that members and alternates be appointed or rescinded by Council resolution.

Date: October 30, 2017
File: 0550-01

CITY OF KELOWNA

BYLAW NO. 10741

Amendment No.9 to the Solid Waste Management Regulation Bylaw No. 10106

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts that the City of Kelowna Solid Waste Management Regulation Bylaw No. 10106 be amended as follows:

1. THAT Section **1 INTRODUCTION, 1.2 INTERPRETATION**, be amended as follows:

a) Adding new definitions in their appropriate location as follows:

"Biosolids" means stabilized municipal sewage sludge resulting from a municipal waste water treatment process or septage treatment process which has been sufficiently treated to be deemed non-hazardous and passes the Paint Filter Test (US EPA SW-846 Test Method 9095B: Paint Filter Liquids Test or other methodology approved by the BC Ministry of Environment).

"Commercial Refuse Haulers" are garbage/refuse collection companies with a valid business licence whose primary function is handling refuse and delivering this refuse to the Glenmore Landfill for disposal, recycling or composting.

"International Waste" means vegetative, food and other refuse left at the Kelowna International Airport which may or may not contain pests or diseases detrimental to local agriculture."

b) Adding after the words "asphalt, concrete" in the definition for **"Mandatory Recyclable Material"**, (b) **"Mandatory Landfill or Recycling Depot Recyclable Material"** the words "asphalt shingles";

c) Adding in its appropriate location a definition for **"Stumps"** as follows:

"Stumps" means the woody part of the root system of a tree or large shrub, cut at ground level and without attached granular soil materials.";

d) Deleting in its entirety **"Recyclable Gypsum"** that reads:

"Recyclable Gypsum" means source-separated gypsum board or wall board, including new construction off-cuts or scraps, and old wallboard that has been painted, covered in wallpaper, vinyl or ceramic tiles and is removed during renovation, but excluding lathe masonry gypsum wallboard, wallboard associated with asbestos and wallboard contaminated with any other waste.

and replacing it with the following:

"Recyclable Gypsum" means source-separated gypsum board or wall board, including new construction off-cuts or scraps, and old wallboard that has been painted or covered in wallpaper, and is removed during

renovation, but excluding lathe masonry gypsum wallboard, wallboard associated with asbestos and wallboard contaminated with any other waste.

e) Deleting the definition for “**Wood Waste**” in its entirety that reads:

“**Wood Waste**” means clean, organic, source-separated material including, but not necessarily limited to:

- kiln-dried dimensional lumber (such as wood pallets, and demolition wood waste);
- branches or prunings greater than 20 centimetres (8 inches) in diameter;
- plywood;
- particle board; and,
- pressed board

provided such material is free of chemical treatments, creosote, rocks, metals (other than nails and screws), heavy coats of paint, wire, fibreglass, asphalt materials, and other non-wood materials.”

and replacing it with the following:

“**Wood Waste**” means clean, organic, source-separated material including, but not necessarily limited to:

- Branches greater than 5 centimetres in circumference;
- kiln-dried dimensional lumber (such as wood pallets, board ends and demolition wood waste);
- plywood;
- particle board; and
- pressed board.

provided such material is free of chemical treatments, creosote, rocks, metals (other than nails and screws), paint, wire, fibreglass, asphalt materials, and other non-wood materials.”

f) Deleting the definition for “**Yard Waste**” in its entirety that reads:

“**Yard Waste**” means green waste including but not necessarily limited to grass and hedge clippings, leaves, grass, flowers, vegetable stalks, woody or herbaceous waste, fruit and vegetable waste, and prunings that can be effectively composted. Includes prunings up to 1 metre in length and 5 centimetres in circumference.”

and replacing it with the following:

“**Yard Waste**” means green waste including but not necessarily limited to grass, hedge clippings, leaves, flowers, vegetable stalks, woody or herbaceous waste, and prunings up to 5 centimetres in circumference.” and

g) Deleting “2105 Glenmore Road” from the definition of “**Landfill**” and replacing it with “2720 John Hindle Drive”.

2. AND THAT Section 2 **COLLECTION SYSTEMS**, Section 2.1.1 be amended by deleting the words “, except those who have been granted a waiver of service by City Council.”

3. AND THAT Section 3 **LANDFILL AND RECYCLING DEPOTS**, be amended by adding new **3.2 AUTOMATED SCALE USE** and **3.3.2 SCALE ACCESS CARDS** that reads:

"3.2 AUTOMATED SCALE USE

- 3.2.1 Commercial refuse haulers possessing a charge account in good standing for a minimum of one calendar year with the City for the Glenmore Landfill may apply to utilize the automated scale terminals.
- 3.2.2 Commercial Refuse haulers utilizing this service must have drivers trained by City Landfill staff in the automated scale terminal operations.

3.3 SCALE ACCESS CARDS

- 3.3.1 Access cards for automated scale terminals may be issued to credit account holders who are commercial refuse haulers, provided the account has been in good standing for a minimum of one year.
- 3.3.2 Access cards may be provided to approved account holders for an annual fee of \$10.00 per card plus applicable taxes, with no activation fee. The annual renewal date is July 1st.
- 3.3.3 Replacement for lost or stolen access cards may be provided at a cost of \$25.00 per access card plus applicable taxes, with a \$100.00 reactivation fee. There is no charge to replace or reactivate access cards that are malfunctioning or misreading.
- 3.3.4 Automated scale use privileges may be revoked by the City for reasons including but not limited to:
 - 1) inaccuracy or falsely reporting load composition at the terminal;
 - 2) allowing a charge account to fall over 60 days in arrears;
 - 3) failure to declare contamination in a load, once it is deposited on site;
 - 4) sharing or misuse of access cards
- 3.3.5 If, after entering the load composition at the terminal, an account holder discovers a contaminated or misrepresented load upon depositing/unloading and fails to immediately report the error to the scale operator, notification will be delivered to the company on each offence as follows:
 - a) First Offence – Correct charge will be filed against the ticket and all applicable surcharges will be added. The offending Access Card will be deactivated for 14 calendar days and subject to a reactivation fee of \$100.00.
 - b) Second Offence – First offence penalty will be applied, in addition all cards provided to the company will be deactivated for 30 calendar days and subject to a reactivation fee of \$100.00 per card.
 - c) Third Offence – First offence penalty will be applied, in addition all cards provided to the company will be deactivated for a minimum of one year. The company will no longer have access to the automated scale terminal and may re apply for access cards after ONE calendar year at the discretion of the Director of Civic Operations.

4. AND THAT Section 4 **PROHIBITIONS, OFFENCES AND PENALTIES, 4.1 PROHIBITIONS** be amended by adding in its appropriate location a new sub-section 4.1.15 that reads:

"4.1.15 No person shall, while on site at the landfill, act in a manner, or manoeuvre a vehicle in a manner that may be construed as reckless, dangerous or threatening."

5. AND THAT Section 4 **PROHIBITIONS, OFFENCES AND PENALTIES, 4.2 OFFENCES AND PENALTIES** be amended by deleting sub-section 4.2.2.3 in its entirety that reads;

"4.2.2.3 May be prohibited from entering and depositing *Garbage* or *Recyclable Material* at the *Landfill*; or"

and replacing it with the following:

"4.2.2.3 May be prohibited from entering the *Landfill* for a period of one (1) month for a first offence; six (6) months for a second offence, and; one (1) year for a third offence; or"

6. AND THAT **Schedule "B" CURBSIDE PICK UP LIMITS AND COLLECTION FEES, Section 2.0** be amended by deleting in its entirety the following:

"2.0 The following fees and charges shall be paid in relation to the removal of *Garbage, Mandatory Residential Recyclable Material* and *Yard Waste* pursuant to the residential collection system established under this bylaw:

\$162.30 for each individual *Collection and Solid Waste Reduction Service fee* and an additional \$72.00 per year *Large Cart Fee* for each individual *Residential Dwelling Premise* using the 240 litre Cart collection service for *Garbage* as per section 2.2.15. Notwithstanding this provision, where a waiver of service has been approved pursuant to section 2.1 of this bylaw, a *Collection Fee* shall not be levied, however a *Solid Waste Reduction Services Fee* shall be levied for landfill disposal costs, waste reduction activities, recycling depot and recycle processing facility operations. This fee for *Solid Waste Reduction Services* is set at \$99.04 for 2012 per year and \$108.42 per year for starting in 2013 for each *Residential Dwelling Premise*. *Collection Fee* portion of the *Collection and Solid Waste Reduction Service Fee* is \$88.88. *Residential Dwelling Premises* shall be invoiced annually, with charges covering a twelve month period being placed on the annual property tax bill sent by the *City*.

Payments received are applied firstly to arrears, then to current charges. New accounts are billed from the date of request for final inspection of the applicable building permit works, on a pro-rated basis."

and replacing it with:

"2.0 The following fees and charges shall be paid in relation to the removal of *Garbage, Mandatory Residential Recyclable Material* and *Yard Waste* pursuant to the residential collection system established under this bylaw:

	2018	2019	2020
Garbage Collection fee	\$84.96	\$84.96	\$84.96
Finance Administration fee	\$4.21	\$4.21	\$4.21
Landfill Disposal	\$50.68	\$56.68	\$56.68
WRO Programming	\$17.56	\$17.56	\$17.56
Cart Borrowing Costs	\$16.89	\$16.89	\$16.89
TOTAL	\$174.30	\$180.30	\$180.30

Each *Residential Dwelling Premise* using a 240L cart for garbage collection will pay an additional annual fee outlined in the table below. Also, each *Residential Dwelling Premise* may request and obtain a second Yard Waste Cart for a one-time cost of \$55.00 plus an annual fee of \$30.00

	2018	2019	2020
Large Garbage Cart (240L) fee	\$84/annum	\$90/annum	\$90/annum

Residential Dwelling Premises shall be invoiced annually, with charges covering a twelve-month period being placed on the annual property tax bill sent by the *City*. Payments received are applied firstly to arrears, then to current charges. New accounts are billed from the date of request for final inspection of the applicable building permit works, on a pro-rated basis."

7. AND THAT **Schedule "B" CURBSIDE PICK UP LIMITS AND COLLECTION FEES, Section 2.2** be amended by deleting in its entirety the following:

"Each individual *Residential Dwelling Premise* will receive one free *Garbage, Yard Waste and Recyclables Cart Change Out* for different cart sizes as per sections 2.2.15 and 2.2.16. Additional cart size *Change Outs* will be assessed a *Change Out Fee* of \$25.00 per *Change Out* exchange and will be invoiced to the *Owner* of the *Residential Dwelling Premise*."

And replacing it with:

"Each individual *Residential Dwelling Premise* will receive one free *Garbage, Yard Waste or Recyclables Cart Change Out* for different cart sizes as per sections 2.2.15 and 2.2.16. Additional cart size *Change Outs* will be assessed a *Change Out Fee* of \$25.00 plus applicable taxes per *Change Out* exchange and will be invoiced to the *Owner* of the *Residential Dwelling Premise*."

8. AND THAT **Schedule "E" SANITARY LANDFILL / RECYCLING FEES, Section 1** be amended by:

- a) deleting "\$145.00" in sub-section (a)(iii) gypsum drywall \$145.00 per metric tonne and replacing it with "\$175.00";
- b) deleting "\$145.00" in sub-section (c) Recyclable Gypsum in loads of one metric tonne or less and replacing it with "\$175.00"
- c) deleting in its entirety sub-section (b) clean wood waste and replacing it with the following:

"(b) Wood Waste	\$10.00 per metric tonne
(i) Lumber	\$10.00 per metric tonne"

- d) deleting in its entirety sub-section (e) Yard Waste and replacing it with the following:

"(i) Yard waste	\$40.00 per metric tonne
(ii) Stumps	\$ 90.00 per metric tonne"

- e) deleting the amount "\$1.00" from sub-section (f)(i) and replacing it with "\$3.00";
- f) deleting the amount "\$150.00" from sub-section (g) Asbestos (friable), and replacing it with a new amount of "\$250.00";
- g) deleting the amount "\$65.00" from sub-section (k) Carcasses weighing under 100 kg, and replacing it with:

"\$85.00"	Effective January 1, 2018
"\$95.00"	Effective January 1, 2019
"\$100.00"	Effective January 1, 2020

- h) deleting in its entirety sub-section (m) All other residential Garbage not included above: \$65.00 per metric tonne and replacing it with the following:

"(m) All other municipal Garbage not included above:

"\$85.00 per metric tonne"	Effective January 1, 2018
"\$95.00 per metric tonne"	Effective January 1, 2019
"\$100.00 per metric tonne"	Effective January 1, 2020

- i) Adding a new sub-paragraphs (q), (r), (s), (t), (u) and (v) as follows:

"(q) Handling Fee for Contaminated Mandatory Recyclable Loads	\$50.00 per metric tonne
(r) Handling Fee for immediate burial of International Waste	\$150.00 surcharge (plus applicable weight-based fees)

- | | | |
|-----|---|---|
| (s) | Requiring sorting | \$125.00 per metric tonne |
| (t) | Stumps (no soil or rocks attached) | \$90.00 per metric tonne |
| (u) | Mattresses | \$12.50 each or \$12.50 each plus weight (as Garbage) when in a co-mingled load |
| (v) | Biosolids (only accepted on a short term emergency basis and with prior written approval from the City) | \$250.00 per metric tonne |

9. AND THAT **Schedule "E" SANITARY LANDFILL / RECYCLING FEES, Section 3** be amended by deleting the following:

- \$2.50 per *Standard Garbage Bag* up to six (6) *Standard Garbage Bags*
- \$8.00 per load of *Garbage* for loads weighing up to and including 250 kg effective January 1, 2012 and \$10.00 per load of *Garbage* for loads weighing up to and including 250 kg effective January 1, 2013
- \$65.00 per metric tonne of *Garbage* for loads weighing greater than 250 kg

and replace it with:

- \$5.00 per load of wood waste or yard waste for loads weighing up to and including 250 kg, and as per the table below for Garbage or other billable waste streams for loads weighing up to and including 250 kg:

\$11 per load	Effective January 1, 2018
\$12 per load	Effective January 1, 2019

\$85.00 per metric tonne	Effective January 1, 2018
\$95.00 per metric tonne	Effective January 1, 2019
\$100.00 per metric tonne	Effective January 1, 2020

12. This bylaw may be cited for all purposes as "Bylaw No. 10741 being Amendment No. 9 to the Solid Waste Management Regulation Bylaw No. 10106."

Read a first, second and third time this by the Municipal Council of the City of Kelowna this 2nd day of October, 2017.

Adopted by the Municipal Council of the City of Kelowna this

Mayor

Clerk

CITY OF KELOWNA

BYLAW NO. 11439

Amendment No. 35 to Sewerage System User Bylaw No. 3480

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts that the City of Kelowna Sewerage System User Bylaw No. 3480 be amended as follows:

1. THAT Section 5 (1) be amended by deleting the following and renumbering subsequent subparagraphs:

"5 (1) Commercial Users that have a City of Kelowna metered water supply shall pay a monthly or bi-monthly base rate plus a consumption charge for the use of the sewerage system calculated on the quantity of water delivered to the premises at the following rate for each one (1) cubic meter:"

And replace it with:

- "5 (1) Commercial Users that have a City of Kelowna metered water supply shall pay a monthly or bi-monthly base rate plus a consumption charge for the use of the sewerage system calculated on the quantity of water delivered to the premises at the following rate for each one (1) cubic meter:

	Effective May 2017	Effective May 2018
Metered base rate per month	\$11.14	\$11.36
Bi-Monthly	\$22.28	\$22.72
Consumption charge	\$0.92/m ³	\$0.94/m ³

- (2) The property at 3176-3348 University Way, Kelowna BC (UBCO) shall pay a monthly or bi-monthly charge for the use of the sewerage system calculated on the metered quantity of sewage discharged from the premises at the following rate table:

	Effective October 2017	Effective May 2018
Metered base rate per month	\$261.14	\$261.36
Bi-Monthly	\$522.28	\$522.72
Consumption charge	\$0.92/m ³	\$0.94/m ³

2. AND THAT Section 11 be deleted that reads:

"11. Where Industrial / Commercial / Institutional users make a consumptive use of water which is not returned to the Sanitary Sewer system, and they meet the conditions established in Section 12, they may apply for adjustment of the monthly charges made under this bylaw by providing evidence by measuring the consumptive use that is not returned to the Sanitary Sewer system through the use of a Sewer Credit meter satisfactory to the Utility Manager."

And replaced with:

"11. Where Industrial / Commercial / Institutional users make a consumptive use of water which is not returned to the Sanitary Sewer system, and they meet the conditions established in Section 12, they may apply for adjustment of the monthly charges made under this bylaw by providing evidence by measuring the consumptive use that is not returned to the Sanitary Sewer system through the use of a Sewer Credit meter or alternate acceptable means satisfactory to the Utility Manager."

3. This bylaw may be cited for all purposes as "Bylaw No.11439, being Amendment No. 35 to Sewerage System User to Bylaw No. 3480."

4. This bylaw shall come into full force and effect as of the date of adoption.

Read a first, second and third time by the Municipal Council this 2nd day of October, 2017.

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

CITY OF KELOWNA

BYLAW NO. 11497

Road Closure and Removal of Highway Dedication Bylaw **(Portion of Lane Adjacent to Gaston Avenue)**

A bylaw pursuant to Section 40 of the Community Charter to authorize the City to permanently close and remove the highway dedication of a portion of highway on adjacent to Gaston Avenue

NOW THEREFORE, the Municipal Council of the City of Kelowna, in open meeting assembled, hereby enacts as follows:

1. That portion of highway attached as Schedule "A" comprising 186.0 m² shown in bold black as Closed Road on the Reference Plan prepared by Mark A. Cahill, B.C.L.S., is hereby stopped up and closed to traffic and the highway dedication removed.
2. The Mayor and City Clerk of the City of Kelowna are hereby authorized to execute such conveyances, titles, survey plans, forms and other documents on behalf of the said City as may be necessary for the purposes aforesaid.

Read a first, second and third time by the Municipal Council this 16th day of October, 2017.

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

