

COMMITTEE REPORT



Date: September 12, 2018

RIM No. 1210-21

To: Agricultural Advisory Committee (AAC)

From: Community Planning Department (AK)

Application: A18-0003 **Owner:** Glen Auch & Gladys Crossley

Address: 2850 McCurdy Road **Applicant:** Jason Palmer

Subject: Application to the ALC to Exclude the Subject Property from the ALR

1.0 Purpose

The applicant is requesting permission from the ALC to exclude 6.2 ha (15.4 acres) of land, located at 2850 McCurdy Road, Kelowna, BC from the Agricultural Land Reserve under Section 30(1) of the Agricultural Land Commission Act.

2.0 Proposal

2.1 Background

The property is currently and was historically used for hay production; the applicant notes that soil conditions require significant irrigation and fertilizer for crop production. It was also previously used for pasture and to raise some livestock. The property owners have owned the property since 1947 and have a water license for irrigation from Mill Creek.

The property was subdivided in 2007 to dedicate the McCurdy Road right-of-way and return Mill Creek to the Crown. A small panhandle was also created for the adjacent property to the east.

2.2 Project Description

The proposal is to remove the subject property from the ALR to facilitate an application to rezone the land for commercial or industrial development. This would also require an OCP amendment application to expand the Permanent Growth Boundary and change the property's Future Land Use designation, which is currently REP – Resource Protection Area.

2.3 Site Context

The subject property lies within the City's Highway 97 Sector and is entirely within the ALR. It is outside of the Permanent Growth Boundary and is zoned A1 – Agriculture 1. The Future Land Use designation is primarily REP – Resource Protection Area with a portion designated Park – Major Park / Open Space (Public) along Mill Creek in the northwest corner, where the property is hooked across Mill Creek. The property is generally flat with some slopes along the banks of Mill Creek. A single detached house, built in 1946, and a detached garage are located near the front of the property.

Parcel Summary – 2850 McCurdy Road:

Parcel Size: 6.2 ha (15.4 acres)

Elevation: 390 to 392 metres above sea level (masl) (approx.)

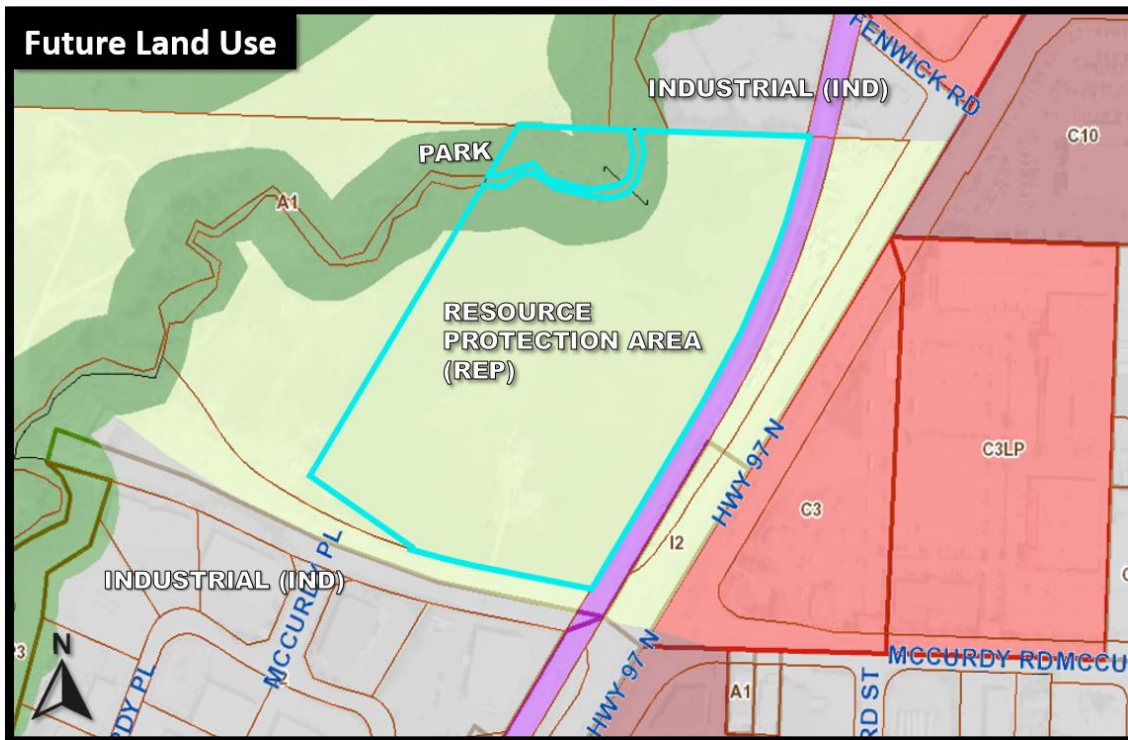
Map 1: Neighbourhood



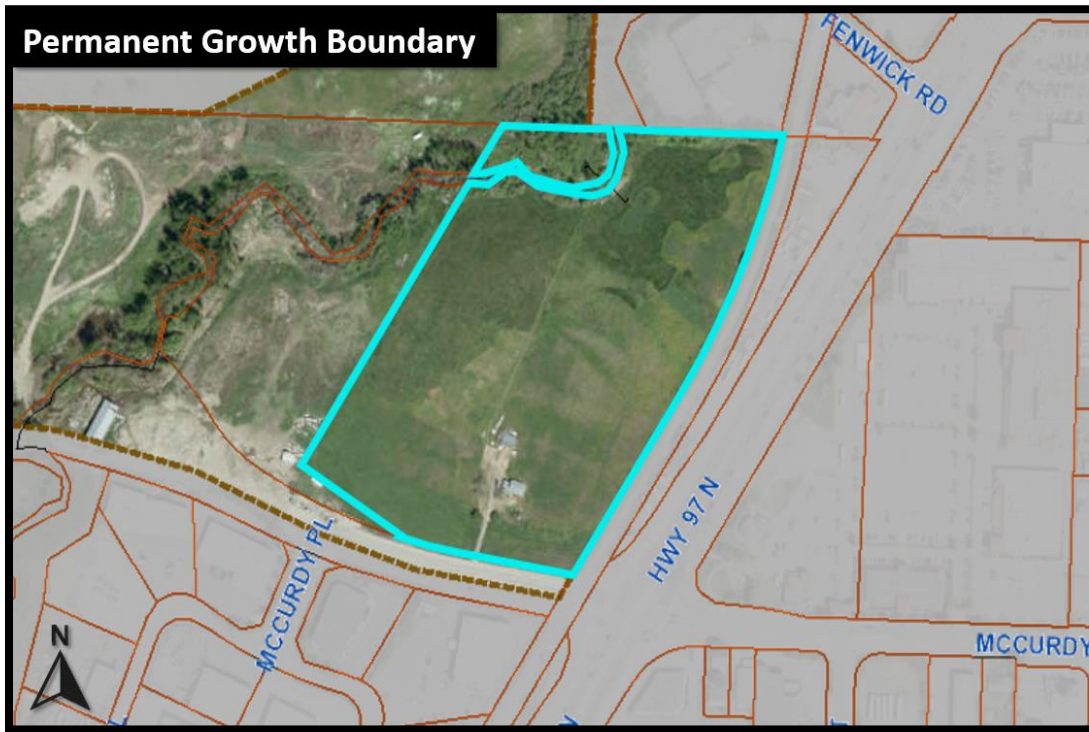
Map 2: Agricultural Land Reserve



Map 3: Future Land Use



Map 4: Permanent Growth Boundary



2.4 Neighbourhood Context

The subject property is near agricultural, natural open space and industrial areas. The properties to the north and south have an Industrial Future Land Use designation and the Okanagan Rail Trail runs along the east property line. The property to the east is within the ALR and Mill Creek runs through the northwest corner of the subject property.

Zoning and land uses adjacent to the property are as follows:

Direction	Zoning	ALR	Land Use
North	A1 – Agriculture 1	Yes / No	Open space / Mill Creek Industrial
East	A1 – Agriculture 1	No	Okanagan Rail Trail
South	I2 – General Industrial A1 – Agriculture 1	No / Yes	Industrial (Marshall Business Centre) Agriculture
West	A1 – Agriculture 1	Yes	Agriculture

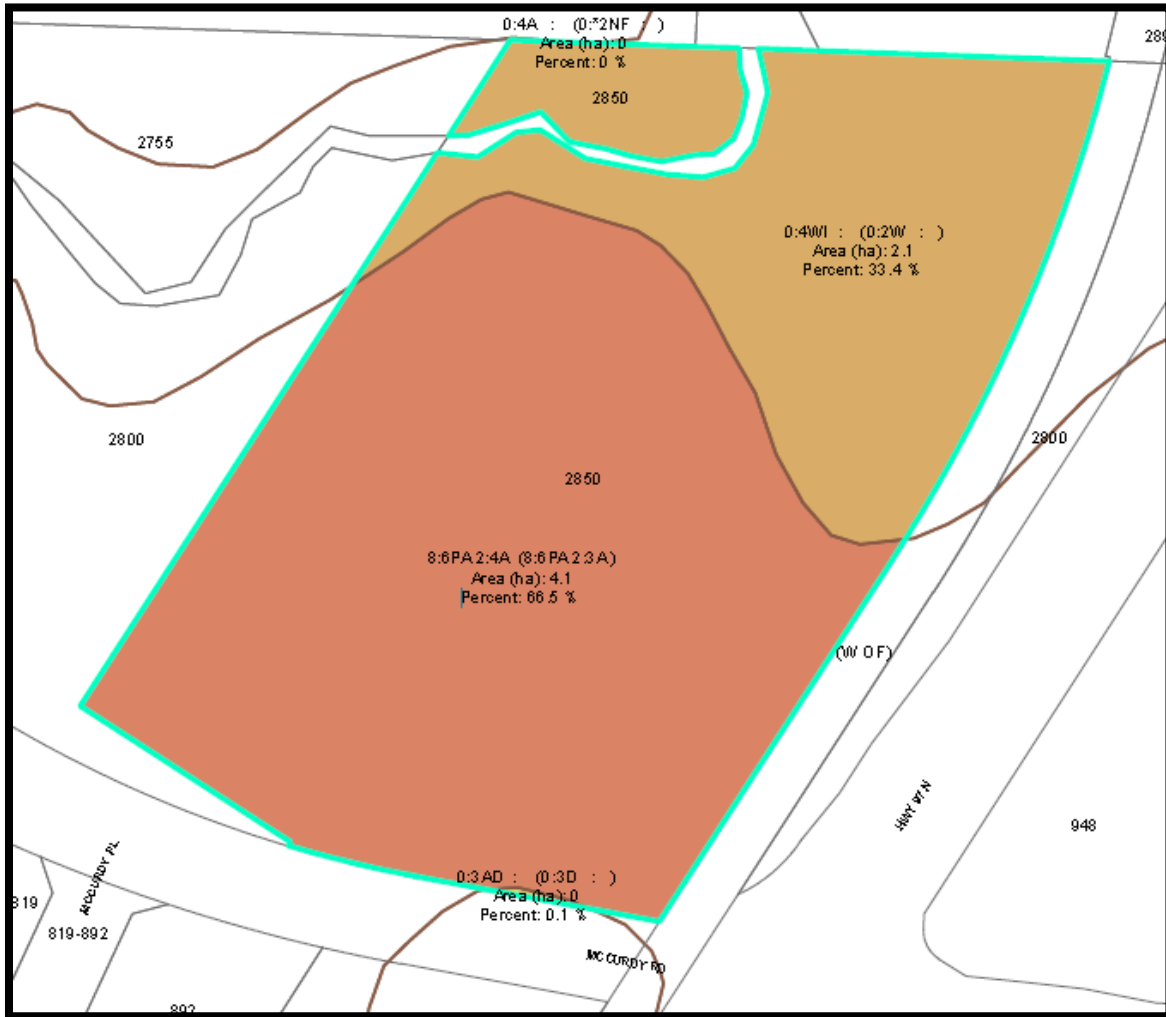
2.5 Agricultural Land Capability

The Land Capability Classification for Agriculture in BC manual published by the Ministry of Agriculture which assesses the agricultural capability of land identifies that approximately 66% of the subject property has a land capability ranging from Class 6 to Class 4. 33% of the land has an Agricultural Land Capacity ranging between Class 4 and could be Class 2 with improvements.

In 1974 the property owners commissioned appraisal reports to determine the property’s value and other potential uses. The reports include some information about the property’s soils, which at the time were

classified as 60% Class 2 and 40% Class 3, with irrigation. It should be noted the 1974 report is a land value Appraisal, not an Agrologist Report or agriculture assessment.

The applicants have commissioned a professional Agrologist Report which states: *There is an improved rating (that is, with irrigation) on this landform of 50% Class 2 limited by moisture and 50% Class 3 limited by moisture and stoniness. Even with irrigation, the stony substructure of the soils causes a moisture deficit.*



2.6 Soil Capability

The Soil Management Handbook for the Okanagan and Similkameen Valley's published by the BC Ministry of Agriculture which categorizes soils having similar agriculturally important characteristics into 'soil management groups' identifies 66% of the property is comprised of pandozy (PY) and Cameron Lake (CL) soils, which generally have gravelly, cobbly, stony and bouldery coarse to medium-textured fluvial fan deposits. The soils are well to rapidly drained and are not well suited for crops, though where soils are non-stony they may be suited for grassland crops. 33% of the property is Priest Creek (PT); generally these soils consist of stone-free, medium to moderately fine-textured overlays and are well suited for forage crops.

The site specific Agrologist Report commissioned by the applicants states: *The soil is stony and has poor water holding capacity. While the soils are limited in the range of crops that can be expected to be produced, they have produced a hay crop for some 70 years. Other crops such as fruit trees were attempted by the owners*

but were frozen out by killing frost. Given the expectation of frost drainage from the surrounding hillsides, this is not surprising.



3.0 Community Planning

Both the City's Agriculture Plan and the OCP recommend protecting agricultural land by not supporting exclusion of land from the ALR. The OCP states land areas within the Resource Protection Area will not be supported for exclusion from the ALR or for more intensive development than that allowed under current zoning regulations. The Official Community Plan also states lands outside the permanent growth boundary will not be supported for urban uses.

The primary objective of the AAC is to advise on sustainable agricultural land use from a multiple bottom line (ie: cultural, economic, environmental and social) perspective. Staff are asking AAC to consider this application and provide a recommendation to Council.

Report Prepared by: Alex Kondor , Planner Specialist

Reviewed by: Laura Bentley, Community Planning Supervisor

Attachments:

Schedule A: Policies

Schedule B: Technical Comments

Schedule C: Agrologist Report

Schedule D: ALC Applicant Submission

SCHEDULE A: Policies



Subject: 2850 McCurdy Road – ALR Exclusion Application

City of Kelowna Agriculture Plan (2017)

Theme 1: Strengthening local policies and regulations to protect agriculture.

Action 1.1d Protect and support the continued designation of Resource Protection lands for agricultural purposes regardless of soil types and capabilities assigned for potential for non-soil based agriculture, and the importance of reducing edge effects through farmland.

City of Kelowna Official Community Plan (OCP)

Chapter 4 – Future Land Use

Resource Protection Area

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 Boundary. 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.

Industrial Land Use Policies

Objective 5.28 Focus industrial development to areas suitable for industrial use.

Policy .1 Rezoning to Industrial. Consider allowing land not currently designated as industrial to be supported for an Official Community Plan amendment and subsequent rezoning to allow industrial uses provided that such a rezoning would be consistent with other Official Community Plan policies, provided that available municipal infrastructure can support the use, and provided that the industrial use would be compatible with existing and proposed future surrounding uses. Compatibility issues to consider include, but are not limited to, visual impact, noise, odour, hours of operation, pollution and traffic.

Agricultural Land Use Policies

Objective 5.33 Protect and enhance local agriculture.

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 .2 ALR Exclusions. The City of Kelowna will not support ALR exclusion applications to the ALC except in extraordinary circumstances where such exclusion is otherwise consistent with the goals, objectives and other policies of this OCP. Soil capability alone should not be used as justification for exclusion.

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.

2.1 Agricultural Land Commission Act (ALCA)

Purposes of the commission – Section 6 of the ALCA

The following are the purposes of the commission:

- (a) to preserve agricultural land;
- (b) to encourage farming on agricultural land in collaboration with other communities of interest;
- (c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

SCHEDULE B: Technical Comments



Subject: 2850 McCurdy Road – ALR Exclusion Application

1.0 Development Engineering Department

Development Engineering has no comments at this point in time with regard to this application, however, a comprehensive report will be provided at the time of development application submission if the Agricultural Land Commission agrees to the proposed exclusion of the subject property.

2.0 Interior Health

Interior Health has an interest in the preservation of farmland to support local agricultural capacity now and in the future. Agricultural capacity is a key aspect of local healthy food systems, contributing to our community's food security. Food systems determine how we choose food and what food we have access to. The food we eat is critical to our health. Land use decisions can influence use of agricultural land which can thereby impact the accessibility, quality and variety of food available to us. Having access to healthy and safe food helps to protect the population from chronic disease and infectious illnesses. In the interest of food security, we suggest the consideration of the following:

- It appears that this application to exclude land from the ALR will not increase food security. Food security has been recognized as a key public health issue by the BC Ministry of Health. Interior Health ensures the delivery of key government priorities to increase and advance food security.
- Farmland preservation helps to maintain a level of food production that contributes to food self-sufficiency, and food self-sufficiency increases food security and supports healthy eating.
- Food self-sufficiency in BC is increasingly important, as extreme weather will affect food production in California and elsewhere. Currently, California supplies 40%-50% of BC's imported fruits and vegetables.
- City of Kelowna Bulletin Number 14A-05 highlights important information: Ministry of Agriculture data shows that 25% of all farm gate sales in British Columbia is not soil based. As such, the rationale of low agricultural suitability or soil capability is typically not accepted as a rationale for subdivision, or exclusion from the ALR.
 - There may be opportunity for non-soil based agriculture such as greenhouses, if soil classification does not support an economically viable crop.
- Agricultural capacity not only relies on preservation of farmland but also on supportive infrastructure for agricultural services, as well as packing, processing, storage, and distribution capabilities.
 - There may be opportunity for other non-soil based agriculture activities such as packing, processing and storage facilities.

3.0 Ministry of Agriculture

Ministry of Agriculture offers the following comments for consideration & review:

- It is not in Agriculture's interest to exclude land from ALR regardless of current use. Maintaining agricultural parcels at a size and configuration that will allow for economically viable farm operations supports agriculture.
- Note 1974 report is a land value Appraisal, not an Agrolgist Report or agriculture assessment.
- The property is part of a larger tract of ALR to the west & northwest, fragmentation has potential to compromise agriculture use in adjacent parcels. Further development adjacent may reduce agriculture options.
- Values & benefits of ALR are not strictly economic, consider also riparian values in NW corner & a significant portion of the property along the west border functions to absorb & dissipate ground water.
- Agriculture exists & thrives adjacent to rail lines everywhere, uses associated with free ranging livestock or poultry would require appropriate infrastructure & setbacks but is not incompatible.
- Soils indicate moderate & low agricultural capability across the property. Two main types of soil [Pandozy & Cameron Lk] both sandy loams, are course textured soils & low in organic content requiring additional inputs/fertilizer & organics.

Consider potential agricultural uses:

- Suitable for forages or vegetables (not root crops).
- Greenhouses, vegetable or cannabis production.
- Facilities for processing, storage & value-added agriculture products in conjunction with other farm properties owned or operated as a farm business either by the same owner or a cooperative assoc to which the owner of the farm belongs.
- Poultry or other intensive agriculture – although these may not be as compatible with existing adjacent industrial uses.

4.0 Regional District of Central Okanagan

Kelowna staff may wish to review Regional Growth Strategy Bylaw No. 1336 and ensure that the proposal is in keeping with the vision, goals and policies of the RGS. Link:

<http://www.regionaldistrict.com/media/125810/bylaw1336.pdf>, specific to water resources and ecosystems.

The following RGS policies should be reviewed in accordance with the proposal:

- Consider the Our Food and Our Land sections of the RGS;
- Consider water resources in land use planning decisions;
- Manage growth to minimize disturbance to habitat, watershed and natural drainage areas and systems; and
- Avoid fragmentation of wildlife habitat corridors.

All natural riparian areas associated with Mill Creek should be maintained; limiting disturbance throughout this area. These areas are considered very high environmentally sensitive areas and all measures are to be taken to avoid disturbance of these lands.

SCHEDULE C: Agrologist Report



Subject: 2850 McCurdy Road – ALR Exclusion Application

REGENCY CONSULTANTS LTD. R.G. (Bob) Holtby, MSc, PAg. Principal

July 5, 2018

To: Whom it May Concern

Re: Application for Exclusion from the ALR - 2850 McCurdy Road, Kelowna, BC

1.0 Introduction

I understand that the above property is the subject of an application for exclusion from the Agricultural Land Reserve. The owners, Glen Auch and Gladys Crossley, have asked me to provide an opinion on the impact on agriculture from if removal is approved.

I wrote an opinion on this property on September 12, 2017 providing a prescription for renovation to increase productivity to allow the owners to regain Farm Status from the BC Assessment Authority.

During my onsite inspection of the property with Ms. Crossley's son, Allan, I questioned why the land remained in the Agriculture Land Reserve after the removal of the adjoining Marshall Feedlot and the subsequent development of an industrial park on the area. Apparently, there was some discussion of removing the land from the ALR at that time but no formal application was made. Apparently, there was an application prior to the Marshall application but it was not allowed.

After my writing of this report, I attended a meeting with the owners and members of the Planning Department at City Hall. No support was provided by staff members for an exclusion application.

The property is somewhat isolated from other farm properties after the removal, rezoning and development as shown in Figure 1.

The extent of the Agricultural Land Reserve is shown in Figure 2.

2.0 Qualifications

I am a licensed Agrologist and have been a full member of the B.C. Institute of Agrologists since 1971 (except 2001-2002). I am a graduate from the University of British Columbia with a Bachelor of Science degree in 1967, specializing in Agriculture Economics, and a Master of Science degree in 1972, specializing in Farm Management. My thesis for my Master's degree was entitled *Resource Allocation for the Median Peace River Farm in British Columbia*

I have been involved in the work of the Agricultural Land Commission since 1974 when the reserve boundaries were proclaimed. At that time, I was District Agriculturist for the British Columbia Ministry of Agriculture in Prince George. In October 1978 I entered private practice and have provided professional opinions for clients who have sought amendments to the Agricultural Land Reserve boundaries, subdivision within the ALR, or who have needed assistance in compliance with requests from the Commission.

Figure 1: Aerial Photograph of Subject Area



Figure 2: ALR Boundaries (green) of Subject Area



During my years in both public and private practice, Courts and Review Boards have accepted me as an expert regarding farming practices in British Columbia. Consequently, I feel qualified to provide an assessment of a proposal under the Agricultural Land Commission Act. My qualifications and experience allow me to comment on the value of agricultural land and the practices of farming on that land.

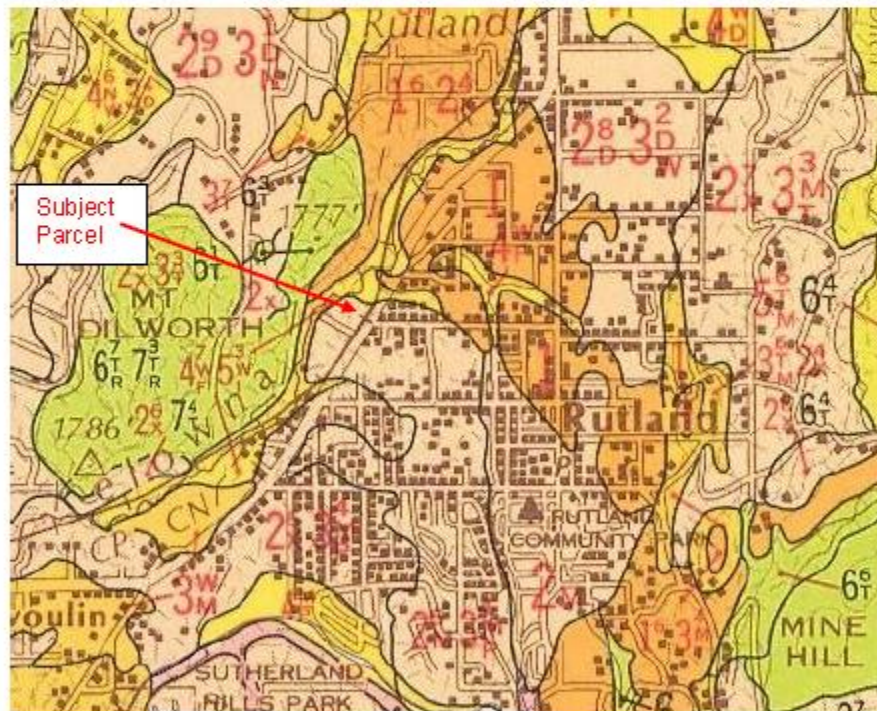
Consequently, I believe I am qualified to comment on the two main purposes of the Agricultural Land Commission. That is: to preserve agricultural land, and to encourage farming on agricultural land in collaboration with other communities of interest.

I am currently a member of the Environmental Appeal Board and the Forest Appeals Commission. Following these appointments, I have received training in Administrative Law and the Rules of Natural Justice.

3.0 Agricultural Capacity of Subject Parcel

I described the soils in my 2017 report as: “stony and has poor water holding capacity.” The Canada Land Inventory classifications are shown in Figure 3:

Figure 3: CLI Classification of Subject Area



There is an improved rating (that is, with irrigation) on this landform of 50% Class 2 limited by moisture and 50% Class 3 limited by moisture and stoniness. These classifications are consistent with my findings. Even with irrigation, the stony substructure of the soils causes a moisture deficit.

While the soils are limited in the range of crops that can be expected to be produced, they have produced a hay crop for some 70 years. Other crops such as fruit trees were

attempted by the owners but were frozen out by killing frost. Given the expectation of frost drainage from the surrounding hillsides, this is not surprising.

The CLI provides no classification as to the expected range of crops without irrigation. Given the soils and the climate, I would not expect a productive crop without water. Fortunately, the applicants have an irrigation water licence (F014292) for some 33 acre-feet of water. That licence should be sufficient for farm use.

The reader should also note that the land to the west of Mill (Kelowna) Creek is a hillside and is classed as either Class 6 for grazing or Class 7 as non-arable. Traditionally land which is considered capable of grazing was included in the ALR to accommodate cattle operations. An examination of the ALR boundaries in Figure 2 indicates that the hillside grazing lands west of Mill Creek were included, probably for that reason.

4.0 Summary and Conclusion

It is my opinion that the highest and best use for soil-based agriculture on this property is forage crops given the soils restrictions and danger of frost drainage.

However, the expansion of industrial and commercial property to the south and east of the subject property, plus the non-arable hillsides to the west, leave this property isolated. I do not believe that exclusion from the ALR and from active agriculture would have any significant effect on the agricultural industry in the City of Kelowna. When researching for this file, I read the *Agriculture Plan Background Report*. Table 1 on page 9 states that only some 45% of land in the ALR is being actively farmed. Consequently, I conclude that there is sufficient unused capacity within the City to take up the lost production from this farm.

The now aging owners of this farm have held it for some 70 years. It is unlikely that it can be sold as a farm or even a rural residential hobby farm given the surrounding non-farm activity. While I am not a Planner, it seems to me that expanding the adjacent commercial and industrial activity into this property is more orderly than seeking new lands away from the infrastructure of the present industrial land.

In addition to the subject parcel, once the Marshall Feedlot was excluded from the ALR, there seems to be little purpose in retaining the grazing lands to the west of Mill Creek in the ALR. With no local cattle operations to use it, it should be available for other uses.

I remain available to discuss my findings and opinions in this report.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R.G. Holtby', written in a cursive style.

R.G. (Bob) Holtby, P.Ag.

SCHEDULE D: ALC Applicant Submission



Subject: 2850 McCurdy Road – ALR Exclusion Application

Current Use of Parcels Under Application

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

PID 027-015-181

A) 6.229 ha (15.3940 acres) Hay Crop-Incredible amounts of fertilizer needed.

B) 1974 & 1971 soil test bore a Very Poorscore for viability.

C) Gravel/Rock Bed under 4 inches of loamy sandy/rocky soil as geographically depicted in iMap BC website.

D) Unable to cultivate or till, as land turns up the large rocks in it, below 4 inches of fibrous, poor water retention, topsoil. (Due to the spongy nature of the 4 inch topsoil the soil dries out and dedicates in a matter of a few hours in the heat of the Okanagan sun)

E) No cash crops can be ever reasonably sustained on land.

F) Large yearly carrying costs to irrigate, fertilize and cultivate (tilling soil will require incredible amounts of man hours (possibly 100s) to pick large rocks). Constant continuous water application and loads of fertilizer will sparsely produce hay, however data and research has proven that this exact location is not a place to grow any income crops by any stretch of the imagination and better suited for commercial and industrial uses. Much more money is needed to farm this ancient rock and gravel river bed than could ever be produced by Mother Nature or by human technological efforts by it for this precise location. This optimally located property is a absolute prime example for optimal use re-zoning. The surrounding business and land owners have nothing but positive support for its removal albeit.

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

A) 15.3940 acres of land and approximately slightly under 14 acres of usable land (excluding riparian area around Mill Creek), with water rights

B) Irrigated with a pump house and main line underground, natural drainage into rocks, no ponds.

C) Well water to house.

D) Septic tank on north side of house and septic field extending 40 feet north.

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

A) House is built in 1946 with 2 stories plus unfinished basement.

B) Detached garage 35 by 26ft.

C) Farm with single family residential improvement on land

Adjacent Land Uses

North

Land Use Type: Commercial / Retail

Specify Activity: Technological manufacturing/Motorbike retail repair shop

Applicant: Glen Auch , Gladys Crossley

East

Land Use Type: Commercial / Retail

Specify Activity: Car Sales/Moving Company/Pub/Theatre/Restaurant/House Furniture retail

South

Land Use Type: Industrial

Specify Activity: Motorsport Sales/ Repair/Manufacturing

West

Land Use Type: Residential

Specify Activity: Water/Winter sport Sales/R.MH3 re-zoning

Proposal

1. How many hectares are you proposing to exclude?

6.3 ha

2. What is the purpose of the proposal?

The purpose of this proposal is to sell the land with rezoning in place to allow commercial/industrial/for any other major development to use the land for its best possible, most productive purpose to accommodate the OCP in its development to benefit the citizens of Kelowna and surrounding areas.

3. Explain why you believe that the parcel(s) should be excluded from the ALR.

The parcel is optimally situated in the heart of a commercial/industrial/residential sector of the city. The demands of the city residents and business owners requiring highway visibility for retail stores and/or services is ever increasing. The prime locations close to City Centre are dwindling over time as city growth has taken hold of the vested interests of its resident population. With the approval of five major re-developments within the city limits of Kelowna's district will put demands on services and this property being situated in an optimal, One of a Kind, location screams re-zoning to benefit the public interests.

Applicant Attachments

- Agent Agreement - Jason Palmer
- Proof of Serving Notice - 57312
- Proof of Advertising - 57312
- Proposal Sketch - 57312
- Other correspondence or file information - Agent/Owner Authorization form City of Kelowna
- Other correspondence or file information - OCP Expansion of McCurdy rd (circa 2001)
- Professional Report - Appraisal/Consultant
- Proof of Signage - 57312
- Site Photo - Rocks and Gravel on surface of land
- Site Photo - Land West of house
- Certificate of Title - 027-015-181

ALC Attachments

None.