

REPORT TO COUNCIL



Date: March 13, 2023

To: Council

From: City Manager

Department: Development Planning

Application: A19-0018

Owners: Jeetender S. Kandola
Manraj K. Kandola

Address: 982 Old Vernon Road

Applicants: Jeetender S. Kandola
Manraj K. Kandola

Subject: Application to the ALC for a Non-Farm Use on a property in the ALR

Existing OCP Designation: R-AGR – Rural – Agricultural and Resource

Existing Zone: A1 – Agriculture

1.0 Recommendation

THAT Agricultural Land Reserve Application No. A19-0018 for Lot 3, Section 1, Township 23, Osoyoos Division, Yale District, Plan 546, located at 982 Old Vernon Road, Kelowna, BC for a Non-Farm Use of agricultural land in the Agricultural Land Reserve pursuant to Section 20(2) 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 allow for a commercial aggregate/soil amendment processing operation, and tree services equipment storage.

3.0 Development Planning

Staff recommend forwarding the proposed Non-farm Use (NFU) application to the Agricultural Land Commission (ALC) to consider the proposed uses on the subject property. The subject property was historically used as a sawmill commonly known as the Russo Sawmill ("the Sawmill"). The Sawmill use dates back to the 1950's which left a large amount of wood waste behind after the business ceased operations. The large amount of wood waste left this property, and the adjoining property to the east, effectively unworkable

for any meaningful agricultural use. The intent of the current aggregate and soil amendment processing business was to use the wood waste to create salable product and eventually return the property to agricultural production.

Due to the long history and complex nature of the property and proposed uses, staff feel that the ALC is the best suited and the ultimate authority to approve the proposal. The subject property was already precluded from being used for agriculture due to the wood waste and the proposed non-farm uses may allow for the land to be used for agricultural purposes in the future. Therefore staff recommends forwarding the application to the ALC for consideration.

Should Council choose not to forward the application to the ALC, City staff will proceed with compliance and enforcement action and require the two commercial businesses to cease operations.

4.0 Proposal

4.1 Background

Historically, the subject property ("Lot 3" at 982 Old Vernon Rd) along with the two neighbouring properties to the east ("Lot 1" at 1124 Old Vernon Rd and "Lot 2" at 1040 Old Vernon Rd), and the adjacent property to the west ("Lot 4" at 944 Old Vernon Rd) were part of the Russo Sawmill operations. The original Sawmill operation was established in the mid 1950's on Lot 2. Following the establishment of the ALR in 1972 and through to the early 2000's, the Sawmill operation continued to expand onto the subject property in contravention with ALC legislation. In 2005, the subject property was sold to the current property owners (applicants) with ~122,330 m³ of remaining wood waste on site from the Sawmill operations. Since purchasing the subject property, the applicants have leased it to different businesses that, while attempting to eliminate/process the wood waste, have also undertaken activities that are not permitted in the ALR and/or without proper permits from the City. To date, significant enforcement action has taken place on the property by both the ALC and City staff. The following is a summary of recent key events. A chronicled history of the subject property and the Sawmill operation along with aerial photograph illustrations can be found in Appendix A.

- *March - October 2017:* An application for an NFU in the ALR was submitted for the subject property. The Agriculture Advisory Committee (AAC) recommended that Council support the proposal, however, was defeated by Council in October 2017.
- *May 2019:* As a result of an ALC Compliance and Enforcement (C&E) direction in 2018, the property owners submitted a new non-farm use application to the City (current application, A19-0018, Attachment A). In this application, the property owners are seeking permission to use the subject property for a composting operation and storage for tree service companies on a short-term basis ("the Original Proposal"). The intent of the Original Proposal was to allow the non-farm uses on the subject property to continue until the time that the remaining wood waste from the Sawmill operation was removed and the subject property could be rehabilitated to an agricultural standard. In general, the applicants' long-term plan towards reclaiming the land to a viable agriculture consisted of sorting, grinding, and screening the wood waste, and then introducing fresh wood chips and yard waste material in order to produce compost material.
- *November 2020:* The Original Proposal was brought before the AAC in November 2020, recommending that Council support the new Original Proposal (Attachment D).
- *June 2021:* Staff and ALC C&E determined that a restoration report completed by an Agrologist would be required.
- *March 31, 2022, and January 4, 2023:* Staff received the restoration report (March 2022, Attachment B), followed by a supplemental report, dated January 4, 2023, submitted by the applicant / lessee (the

Report). In the Report, the applicants / lessee stated that the Original Proposal was to be amended and the applicants / lessee are now applying to conduct the non-farm uses on the subject property indefinitely (Attachment C).

As stated above, prior to receiving this additional information, staff have been operating under the pretense that once the remaining wood waste has been processed and removed, the commercial uses operating on the subject property will cease and the property will be restored and remediated to an agricultural standard. As this is no longer the case, the remainder of this application report is based on the information received in the Report (Attachment C).

4.2 Project Description

The subject property is 4.04 ha (10 acres) and contains one single family dwelling and two commercial operations. The applicants are seeking permission to allow two commercial businesses to continue operating the following uses on the subject property:

1. TNT Trucking Services (TNT)
 - a. Aggregate and soil amendment processing and storage
 - b. Trucking and hauling operation
 - c. Equipment storage
2. A1 Tree Falling Services (A1)
 - a. Vehicle and equipment storage

TNT has been operating from the subject property since 2017 when it started the composting work. The remaining area that is not utilized by the dwelling, is used by A1 for vehicle and equipment storage. TNT currently uses much of the subject property for its operations; it accepts landscaping and organic materials (e.g., sand, soil, subsoils, boulders, orchard waste, etc.) and processes it with the remnant Sawmill wood waste into aggregate and soil products that can be sold. In addition to piles of rock, woody debris, and soil in various stages of processing, the subject property contains large machinery and equipment (excavators, crushers, grinder shredder and tree services equipment), office trailers, trucks for hauling material offsite, vehicle parking and a red wiggler vermiculture operation. In November 2022, it was estimated that 840 m³ remains of the unprocessed remnant Sawmill wood waste and there is approximately 77, 076 m³ of soil, aggregate and organic material in various forms of processing.

The Report provides the following steps to restore the subject property to an agricultural standard:

- 1) *Process all remnant waste from the Sawmill operation.*
- 2) *Remove non-farm use structures, with the exception of property and structures associated with the residence and any future approved operations.*
- 3) *Identify areas on site suitable for potential agriculture capability and soil productivity (with the addition of topsoil).*
- 4) *Spread topsoil in suitable amounts in the areas identified. At this time it is estimated that about 61,000 m³ of soil would be required to meet the agricultural standard for productivity.*

The Report states that the lessee is unable to commit to the restoration steps due to the financial implications, however, the lessee does intend to continue processing the remnant wood waste on the subject property.

Additionally, the Report included monitoring actions to be committed to by the lessee:

- *Ensure that equipment, parking, and non-farm use activities remain within the defined area in red on the submitted site plan.*
- *Ensure no large boulders or trash remains on site between inspections.*

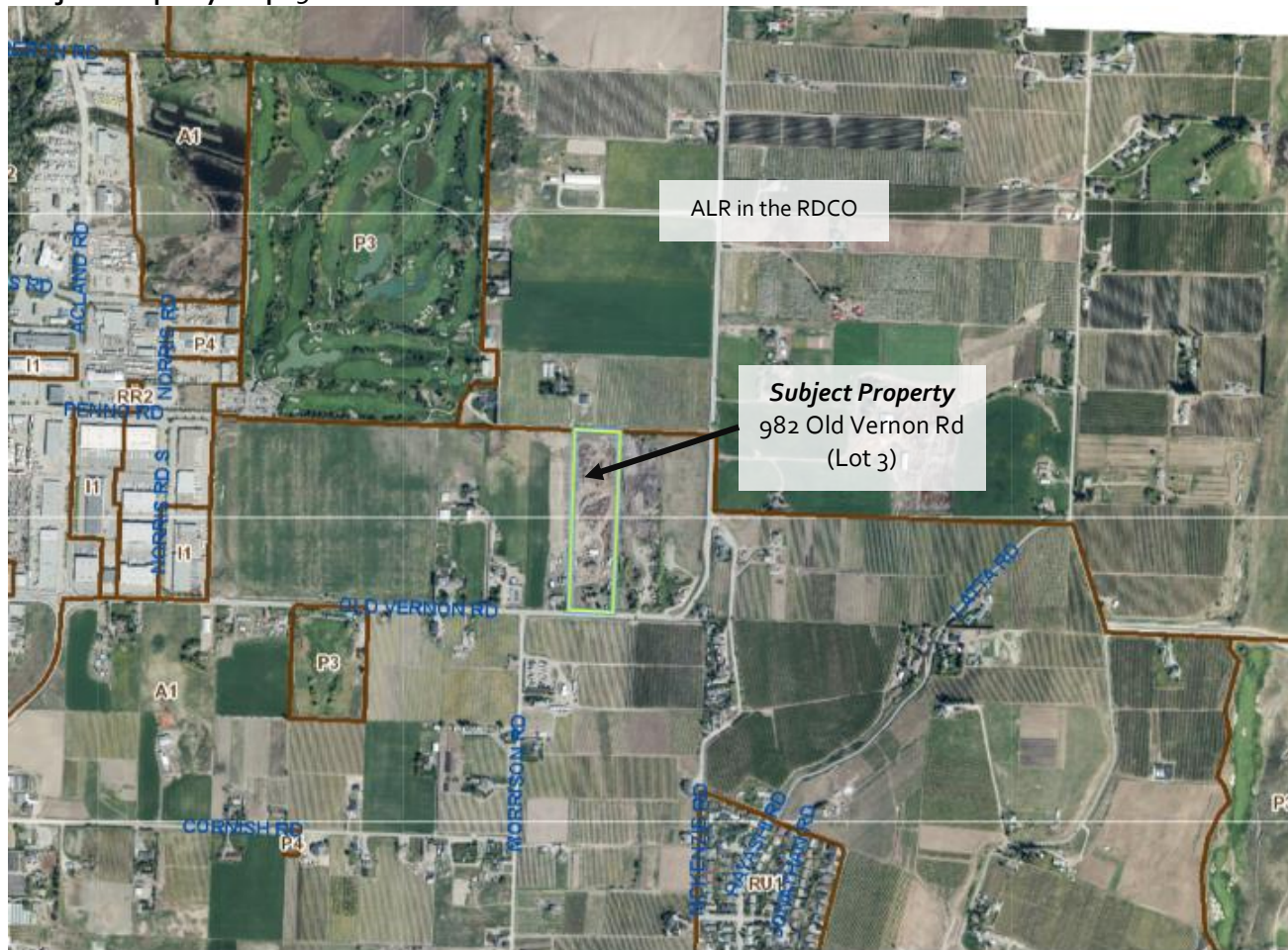
- Ensure all material involved in the working operations on the property do not overlap or extend into neighbouring properties.
- Ensure volumes of remnant wood waste continues to be reduced. With a target date of 2026 for none being on site.

4.3 Site Context

The subject property is located in the Rural District and lies within the R-AGR - Rural – Agricultural and Resource for land use according to the Official Community Plan (OCP). The subject property and the surrounding properties are within the Agricultural Land Reserve (ALR). The properties to the west, south and east are also within the R-AGR - Rural – Agricultural and Resource area for future land use. The properties to the north are outside Kelowna, within the Regional District of the Central Okanagan (RDCO). The property is zoned A1 – Agriculture and is outside of the Permanent Growth Boundary. There is currently a single-family dwelling located near the southern property boundary. Adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	Agriculture (RDCO)/ALR	Agriculture (undefined)
East	A1 – Agriculture/ALR	Wood waste storage and residential
South	A1 – Agriculture/ALR	Agriculture (vegetable)
West	A1 – Agriculture/ALR	Agriculture (forage, pasture)

Subject Property Map: 982 Old Vernon Rd



5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Objective 8.1 Protect and preserve agricultural land and its capability		
Policy Protect Agricultural Land	8.1.1.	<p>Retain the agricultural land base by supporting the ALR and by protecting agricultural lands from development. Ensure that the primary use of agricultural land is agriculture, regardless of parcel size.</p> <p><i>The subject property has been unavailable for agriculture use since the 1950's due to the large amounts of wood waste. The proposed uses may allow for the lands to be utilized for agriculture in the future.</i></p>
Policy Non-Farm Uses	8.1.6	<p>Restrict non-farm uses that do not directly benefit agriculture except where such non-farm uses are otherwise consistent with the goals, objectives, and other policies of this OCP. Support non-farm use applications only where approved by the ALC and where the proposed uses:</p> <ul style="list-style-type: none"> • Are consistent with the Zoning Bylaw and the 2040 OCP; • Provide significant benefits to local agriculture; • Do not require the extension of municipal services; • Will not utilize productive agricultural lands; • Will not preclude future use of the lands for agriculture; and • Will not harm adjacent farm operations <p><i>The subject property was already precluded from being used for agriculture. The proposed non-farm uses may allow for the land to be restored and used for agricultural purposes in the future.</i></p>

6.0 Application Chronology

Date of Application Received:	May 17, 2019
Date of Supporting Application Documents Received:	June 10, 2020
Date of Revised Application Received:	June 22, 2020
Date of AAC Meeting:	November 12, 2020
Date of MOE Site Disclosure Statement Submission:	May 19, 2021
Date of Agrologist Report:	March 31, 2022
Date of Supplemental Agrologist Report:	January 4, 2023
Date Public Consultation Completed:	None required for Non-Farm Use Applications

Report prepared by:	Celeste Barlow, Planner II Barbara B. Crawford, Planner II
Reviewed by:	Dean Strachan, Community Planning & Development Manager
Reviewed by:	Terry Barton, Development Planning Department Manager
Approved for Inclusion:	Ryan Smith, Planning & Development Services Divisional Director

Attachments:

- Appendix A - Site History and Aerial Photograph Chronology
- Attachment A - Applicants' ALC Application for Non-Farm Use, June 2020
- Attachment B – Agrologist Report, March 2022
- Attachment C – Supplemental Agrologist Report, January 2023
- Attachment D - Post-Meeting Minutes AAC, November 12, 2020