

# REPORT TO COUNCIL



**Date:** March 20, 2023

**To:** Council

**From:** City Manager

**Department:** Development Planning Department

**Application:** A23-0002 **Owner:** Francis and Christina Bowers

**Address:** 840 Curtis Road **Applicant:** Ecoscape Environmental Consultants Ltd.

**Subject:** Application to the Agricultural Land Commission for a Soil or Fill Use in the Agricultural Land Reserve for the Placement of Fill

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

**Existing Zone:** A<sub>1</sub> - Agriculture

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## **1.0 Recommendation**

THAT Agricultural Land Reserve Application No. A23-0002 for Lot 2 Sections 3 and 10 Township 23 ODYD Plan EPP28406, located at 840 Curtis Road, Kelowna, BC for a Soil or Fill Use in the Agricultural Land Reserve pursuant to Section 20.3 (5) of the Agricultural Land Commission Act, be supported by Council;

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

### **Purpose**

To support an application to the Agricultural Land Commission to allow for a Soil or Fill Use in order to reclaim land for agriculture.

### **Development Planning**

The applicant is seeking Agricultural Land Commission (ALC) approval to allow placement of soil within a 1.7 hectare area to raise the grade high enough above the water table to enable the growth of wine grapes and sweet cherries. The work requires the importation of fill material to raise the land above the water table to improve soil conditions, reduce frost pockets and reduce the existing high salinity and pH of the soil.

The ALC has determined that Soil and Fill Use applications that are not expressly allowed under the Agricultural Land Reserve Regulation may not proceed to the ALC for permit review unless authorized by a resolution of the local government. There are several common reasons why the ALC will not accept fill applications without first obtaining consent from local government, which are as follows:

- Applicants were initially caught placing fill without permits from the ALC.

- The fill may not aid the farm/farming activity.
- Work is planned to extend beyond two years.
- A waterway may be fouled, obstructed, or impeded.
- The agricultural capability of the land may be degraded.
- Fill placement has not been demonstrated as the only means available to address implementation of standard agricultural best practices.

In this particular instance, the ALC will not accept this proposal directly, since the applicant placed fill without having ALC approvals in place. Subsequently, the applicant has hired a professional agrologist to prepare a plan to seek ALC support for a fill application to improve the agricultural capability of the site. As a result, staff support this Soil or Fill Use proposal to be sent to the ALC for their consideration.

## **2.0 Proposal**

### **2.1 Background**

Previous owners of the subject property received ALC authorization to fill the land to improve the farming capability of the site for a hay pasture. The fill work was completed with ALC authorization and the application was completed and closed. In 2021 the subject property was sold to the current owners. Unfortunately this fill area flooded again and the new owners started bringing in more fill without another ALC authorization. This prompted a stop work order by the ALC and City of Kelowna until further ALC authorizations could be obtained.

### **2.2 Project Description**

The applicant proposes to cultivate approximately 1.7 hectares of the subject property for wine grapes and sweet cherries, which requires the importation of fill material to improve the soil conditions and textures as recommended by a professional agrologist. Additionally, the fill will raise the grade of the land to prevent future flooding and water saturation from Roberts Lake, which has caused the soils to have high salinity and pH that is not conducive for grape and cherry growing.

Approximately 21,135 cubic meters of fill material up to a maximum of 2 meters in depth (within low pockets of the site), is proposed to be placed within a 1.7 hectare area of the property. The fill material will be clean and suitable for agricultural cultivation, with a soil texture ranging from sandy loam to silt loam and must not include heavy clays or excessively stony soils. A drainage and water management plan will be prepared by a Professional Engineer to ensure water is appropriately managed on and offsite – so as not to negatively impact other properties.

Fill placement is planned to commence as soon as possible upon receipt of ALC and City of Kelowna permits and is not to exceed a period of six months. The fill will be transported by 13 yard dump trucks, with access to the property via Curtis Road. All fill sources will be sampled and analyzed by an accredited lab according to the BC Contaminated Sites Regulation standards for agriculture and ALC Bylaw No. 2 and evaluated by a Qualified Professional Agrologist prior to placement. Grading of the fill will match existing grades of neighbouring properties and fill slopes will be a maximum of 28% to enable tractor access in all areas. Planting of wine grapes and sweet cherries will commence following completion of fill placement and establishment of an irrigation system.

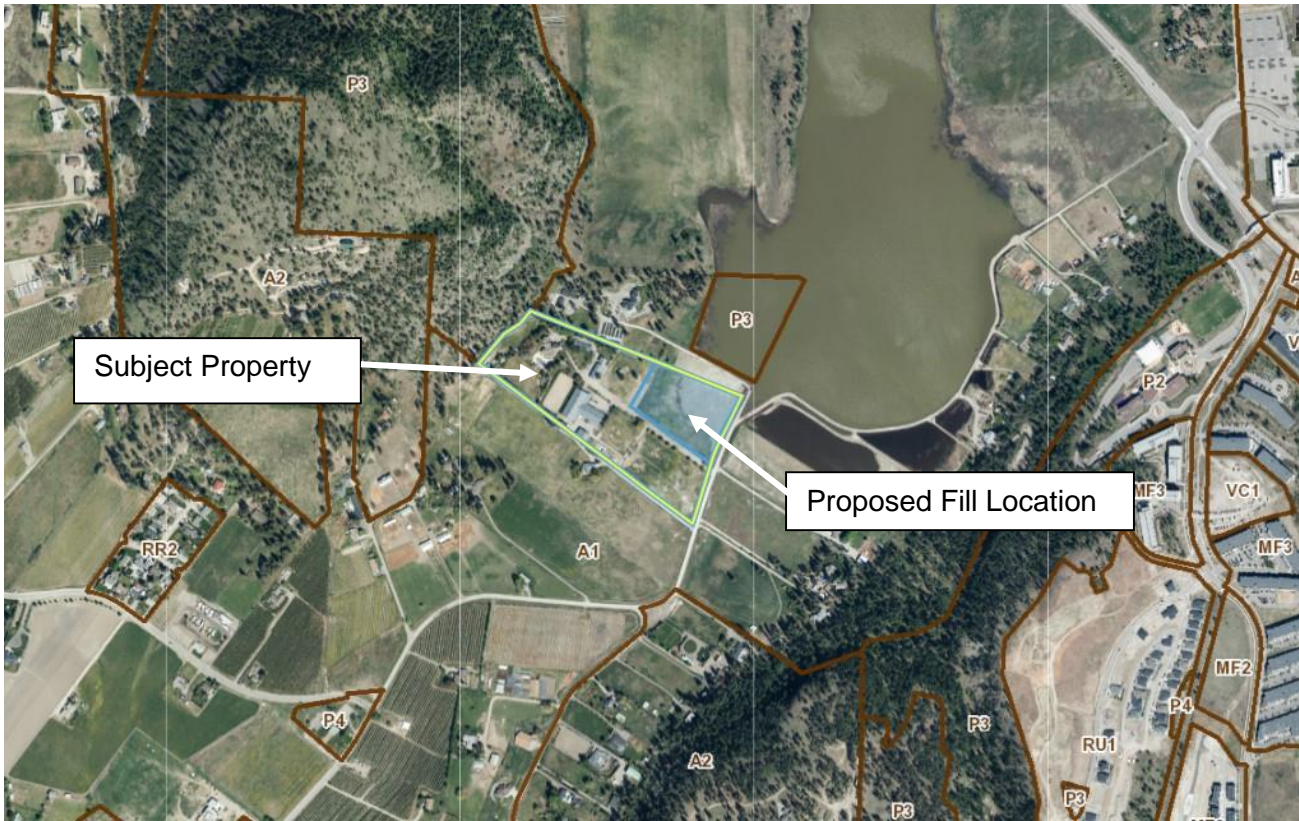
### **Site Context**

The subject property is located in the McKinley Official Community Plan Sector near the end of Curtis Road and approximately 37 meters from Roberts Lake. The parcel is within the Agricultural Land Reserve with a Future Land Use of Rural – Agricultural and Resource (R-AGR) and is zoned A1 – Agriculture.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	A1 - Agriculture	R – AGR – Rural – Agricultural and Resource
East	A1 - Agriculture	R – AGR - Rural – Agricultural and Resource
South	A1 - Agriculture	R – AGR - Rural – Agricultural and Resource
West	P3 – Parks and Open Space	R – AGR - Rural – Agricultural and Resource

**Subject Property Map: 840 Curtis Road**



**3.0 Current Development Policies**

<b>Objective 8.1 Protect and preserve agricultural land and its capability (Chapter 8: Rural Lands)</b>	
Policy 8.1.6 Non Farm Uses	<p>Restrict <u>non-farm uses</u> that do not directly benefit agriculture except where such <u>non-farm uses</u> are otherwise consistent with the goals, objectives and other policies of this OCP. Support <u>non-farm use</u> applications only where approved by the <u>ALC</u> and where the proposed uses:</p> <ul style="list-style-type: none"> <li>• Are consistent with the Zoning Bylaw and the 2040 OCP;</li> <li>• Provide significant benefits to local agriculture;</li> <li>• Do not require the extension of municipal services;</li> <li>• Will not utilize productive <u>agricultural lands</u>;</li> <li>• Will not preclude future use of the lands for agriculture; and</li> <li>• Will not harm adjacent farm operations.</li> </ul>
	<p>The agricultural capability of the proposed fill placement area is Class 4 (limitations that require special management practices or severely restrict the range of crops, or both), due to the high water table and flooding from Roberts Lake. Site reclamation will be undertaken in general conformance with best practices as directed by a qualified professional, to improve agricultural capability to Class 2 or 3.</p>

**4.0 Technical Comments**

**4.1 Development Engineering Department**

There is a legacy of flood-impacted properties in the Roberts Lake Basin; any property owner depositing fill into the Roberts Lake floodplain may be pushing the flood hazard to neighbouring properties. In the absence of a coordinated basin-wide flood plan, approval of individual applications should consider potential flood hazard impacts to neighbouring properties prior to approval.

**4.2 Ministry of Agriculture and Food**

We recommend that the application be forwarded to the Agricultural Land Commission (ALC) for decision as ALC staff have the required expertise to be able to evaluate all of the materials provided by the applicant.

**4.3 Glenmore Ellison Improvement District**

No concerns

**5.0 Application Chronology**

Date of Application Received: January 26, 2023

**Report prepared by:** Corey Davis, Development Technician  
**Reviewed by:** Dean Strachan, Community Planning & Development Manager  
**Reviewed by:** Terry Barton, Development Planning Department Manager  
**Approved for Inclusion:** Ryan Smith, Divisional Director, Planning & Development Services

**Attachments:**

Attachment A: Agricultural Assessment - 840 Curtis Road