

# REPORT TO COUNCIL



**Date:** January 27, 2025  
**To:** Council  
**From:** City Manager  
**Address:** 1850 Brentwood Road  
**File No.:** A24-0010  
**Zone:** A1 – Agriculture

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## 1.0 Recommendation

THAT Agricultural Land Reserve Application No. A24-0010 for Lot 1, Section 18, Township 27, ODYD, Plan 32945, located at 1850 Brentwood Road, Kelowna, BC for a Soil and Fill Use in the Agricultural Land Reserve pursuant to Section 20.3 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.

## 2.0 Purpose

To support an application to the Agricultural Land Commission to allow a Soil and Fill Use application for placement of 35,000 cubic meters of topsoil to facilitate planting of a sweet cherry crop.

## 3.0 Development Planning

In an effort to improve the agricultural productivity of the subject property the owner imported a large volume of fill without authorization from the Agricultural Land Commission (ALC) and City of Kelowna. Subsequently the applicant is seeking a retroactive ALC approval via a Soil Fill Use application for placement of 35,000 cubic meters of topsoil (1.0 m depth) to facilitate planting of a sweet cherry crop. Approximately 13,000 cubic meters of topsoil has already been brought into the site and another 22,000 cubic meters is being proposed to enhance the root zone for a cherry crop. The unauthorized fill area currently covers 2.4 ha (5.9 acres) of the parcel.

The subject property is 17.1 ha (42.3 acres) in size and is located in the Black Mountain City Sector at the intersection of Highway 33 and Brentwood Road. The only farming on the property is 0.8 ha (2 acres) of cherries planted as a test crop.

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 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 Council’s authorization to forward this Soil and Fill Use application to the ALC for their consideration.

As part of the application review process the subject application was assessed by the Agricultural Advisory Committee at the meeting held on December 12, 2024. The Committee recommends that Council support the subject application to be forwarded to the ALC for their consideration. As a result, staff supports this Soil and Fill Use proposal to be sent to the ALC for their review and further direction on the matter.

#### 4.0 Subject Property & Background

##### 4.1 Site Context

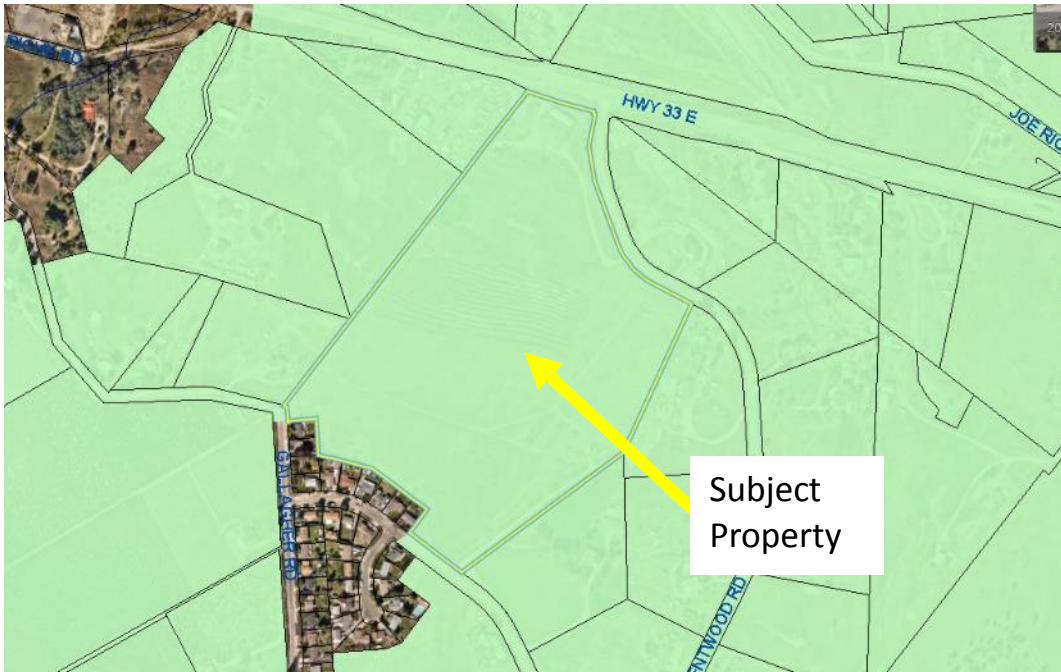
The subject property is located in the Belgo – Black Mountain City Sector at the intersection of Highway 33 and Brentwood Road. The parcel is within the Agricultural Land Reserve with a Future Land Use designation of Rural – Agricultural and Resource (R-AGR) and is zoned A1-Agriculture. The surrounding area is a mix of agricultural and single-family residential land uses.

Orientation	Zoning	ALR	Land Use
North	A1 – Agriculture 1	Yes	Agriculture
South	RR2 – Small Lot Rural Residential	No	Rural Residential
East	A1 – Agriculture 1	Yes	Agriculture
West	A1 – Agriculture 1	Yes	Agriculture

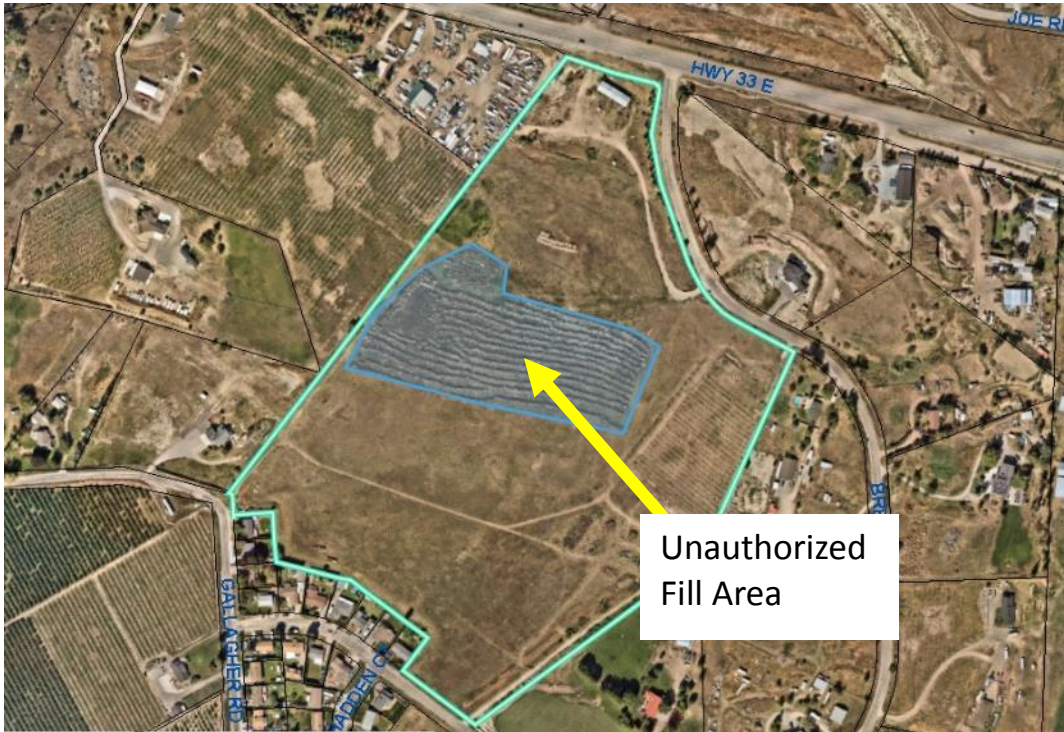
Subject Property Map



ALR Map



## Unauthorized Fill Area Map



### 4.2 Background

Between the spring and summer of 2023, the owners of the subject property imported topsoil to the site without ALC authorization. As a result of ALC and City bylaw enforcement, the owner is required to apply for an ALC Soil and Fill Use application or remove the fill entirely.

The owners of the subject property, the McMeekens, are an existing cherry growing family. The McMeeken family currently farm cherries on Gallagher Road, which is directly across from the subject property. The goal of the family is to expand their cherry production land to include the subject property and to rehabilitate its soils due to past gravel mining activities. The McMeekens farm a total of 5 ha (12.5 acres) of high value cherries and pack them at Northern cherries in Glenmore and market with Global Fruit based in Creston.

Based on the Agrologist's agricultural capability assessment of the parcel, the soils beneath the area of unauthorized fill are rated as class 3AP and are considered suitable for tree fruits. The Agrologist report also states: 1) the imported fill would not change the agricultural capability class of the affected soil and it would remain as class 3AP based on the criteria within the Ministry of Environment (MOE) 1983 assessment framework. 2) The imported fill material, if stone picked and spread to a depth of 40 cm, would increase the thickness of the organic matter-rich topsoil in the affected area, which would enhance the water and nutrient holding capacity of the soil. 3) It is unlikely that spreading the imported fill would, in any way, be detrimental to the future productivity of the site.



**5.0 Current Development Policies**

5.1 Kelowna Official Community Plan (OCP)

<b>Objective 8.1. Protect and preserve agricultural land and its capability</b>	
Policy 8.1.1. Protect Agricultural Land.	<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 applicant proposes to add topsoil to improve the root zone for a sweet cherry crop. The Agrologist study for the subject property supports the topsoil import work conducted so far.</i></p>
Policy 8.1.6. Non-farm Uses.	<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"> <li>i. Are consistent with the Zoning Bylaw and the 2040 OCP;</li> <li>ii. Provide significant benefits to local agriculture;</li> <li>iii. Do not require the extension of municipal services;</li> <li>iv. Will not utilize productive agricultural lands;</li> <li>v. Will not preclude future use of lands for agriculture; and</li> <li>vi. Will not harm adjacent farm operations.</li> </ul> <p><i>The applicant proposes to add topsoil to improve the root zone for a sweet cherry crop. The Agrologist study for the subject property supports the topsoil import work conducted so far.</i></p>

**6.0 Application Chronology**

Application Accepted: July 18, 2024  
 Agricultural Advisory Committee Meeting: December 12, 2024

The subject application was reviewed by the Agricultural Advisory Committee at the meeting held on December 12, 2024 and the following recommendation was passed:

THAT the Committee recommend that Council support an application to the Agricultural Land Commission for a Soil and Fill Use application for placement of 35,000 cubic meters of topsoil to facilitate planting of a sweet cherry crop.

**Report prepared by:** Corey Davis, Development Engineering Technologist  
**Reviewed by:** Dean Strachan, Development Planning Manager. South  
**Reviewed by:** Nola Kilmartin, Development Planning Department Manager  
**Approved for Inclusion:** Ryan Smith, Divisional Director, Planning, Climate Action & Development Services

**Attachments:**

- Attachment A: ALC Application File No. 101256
- Attachment B: Agrology Report – Agricultural Capability Assessment
- Attachment C: Agrology Report – Supplemental Report