

operation through an effort to reduce the wood waste volume on the property and ultimately reclaim the parcel to a condition where agriculture can be undertaken.

Prior to the establishment of the ALR, there was a sawmill on the neighbouring site, 1040 Old Vernon Road. The sawmill was allowed to operate as a legal non-conforming use on the original footprint (approximately 1 ha / 2.47 acres). In subsequent years, the use of storage of wood waste, lumber and sawdust expanded over to include portions of the subject property. The use was expanded through the years, and 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.

A plan of the proposed locations of the non-farm uses is included below.

Figure 1. Proposed Maps of Non-Farm Uses



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



The site historically contained a small sawmill prior to the creation of the ALR. The original Russo Sawmill was designated as a 'Clean Wood Drop Zone' by the City of Kelowna and the Regional District Waste Management. 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.

Two 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, wood waste 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 would be erected on the east, north and west property line.

Up until the early 2000's, the non-farm uses listed in the ALC resolutions were not followed, leading to a further deterioration of the site, including adjacent waterways. The required fence was not constructed, and the equipment of the original sawmill is no longer there to enable the milling and construction of pallets or the chipping or mulching of wood waste.

Staff notes that 982 Old Vernon Road is within the Intensive Agriculture Area according to the City of Kelowna Zoning Bylaw No. 8000. Staff agrees with the 2014 ALC resolution that there remains potential for non-soil based agriculture. 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.

2.1 Project Description

The applicant is requesting a Non-Farm Use approval from the ALC to operate a storage facility for boats and recreational vehicles (RVs), composting, and storage for a tree service company, for a portion of the subject property.

The proposal includes three separate non-farm uses on specific areas of the property, per the plan below. Specifically, they are:

1. Boat and RV Storage
2. Tree Service / Landscaping Company – Vehicle and Equipment Storage
3. Composting Operation

The proposed uses are not permitted under the A1 – Agriculture 1 zone. Should the use be permitted, an option for zoning is a Temporary Use Permit (TUP). Through a TUP, a time period could be established to provide an opportunity for the applicants to undertake the non-farm uses, to help fund the composting operation, through an effort to reduce the wood waste volume on the property and ultimately reclaim the parcel to a condition where agriculture can be undertaken.

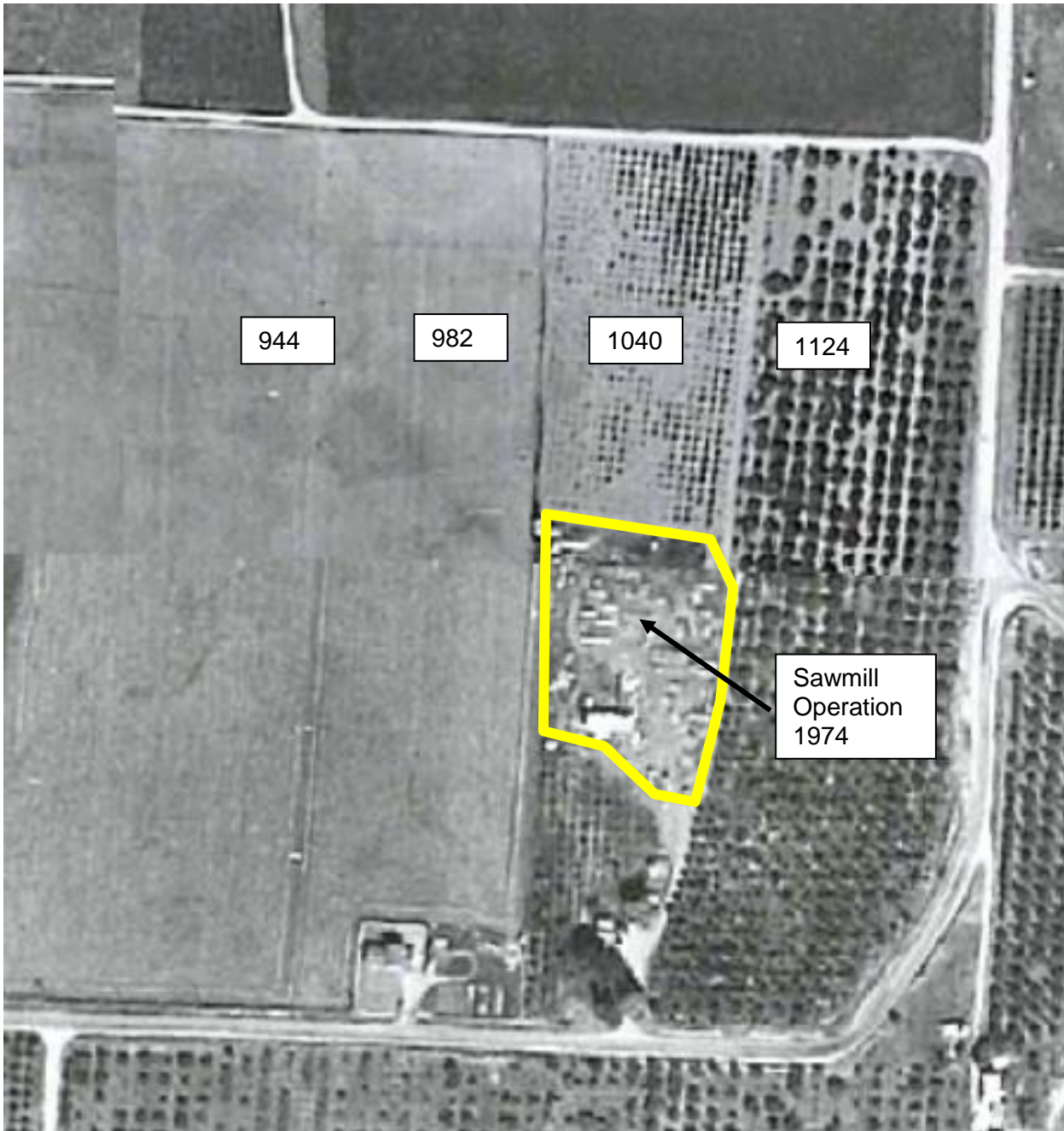
2.2 Background

The site has a history of use as a sawmill. In 1972, at the creation of the ALR, and prior to amalgamation of the site into the City of Kelowna, the sawmill footprint was approximately 1.0 ha (2.47 acres).

Map 1 – Air Photo 1970

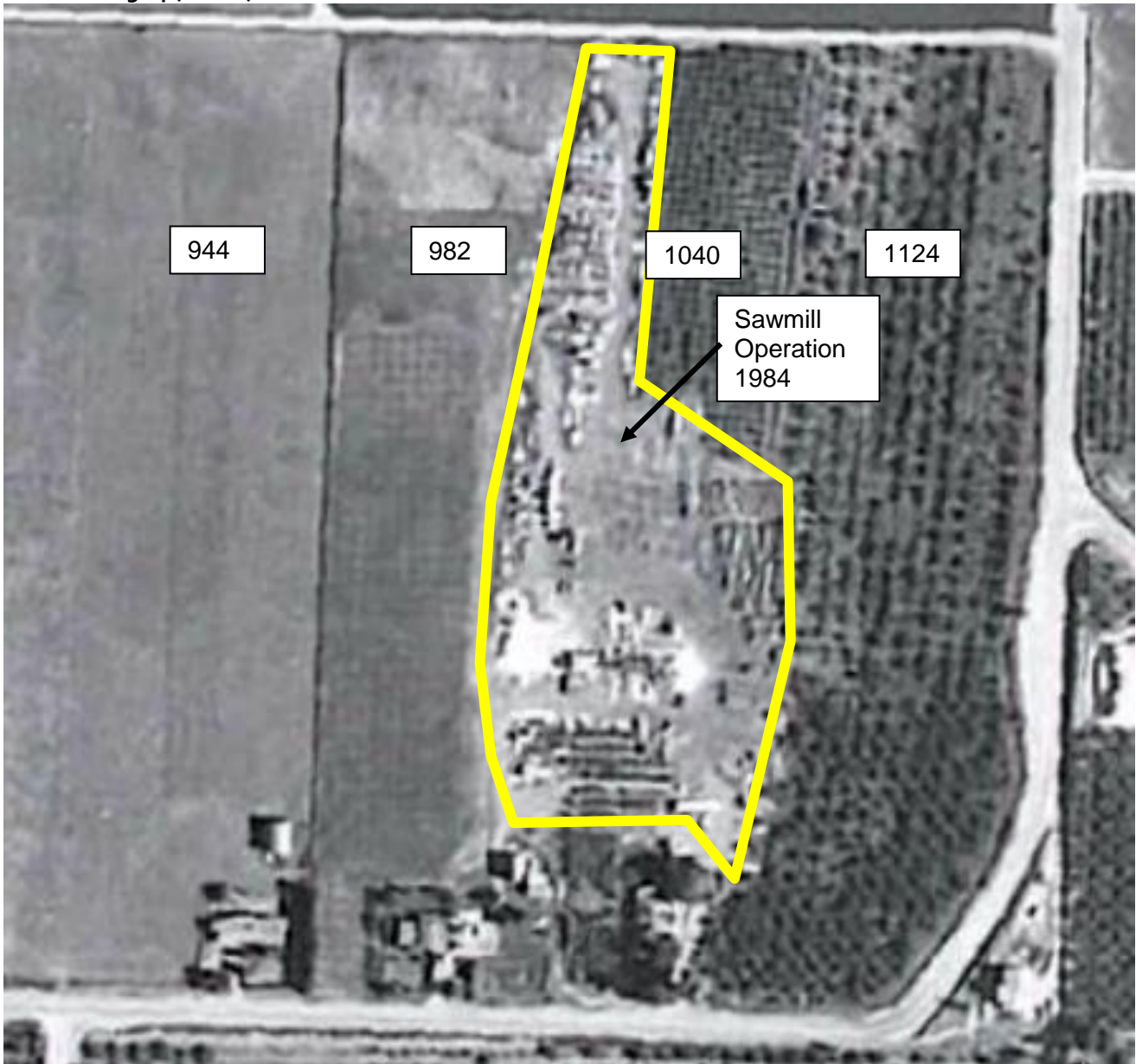


Air Photo 1976 (Russo)



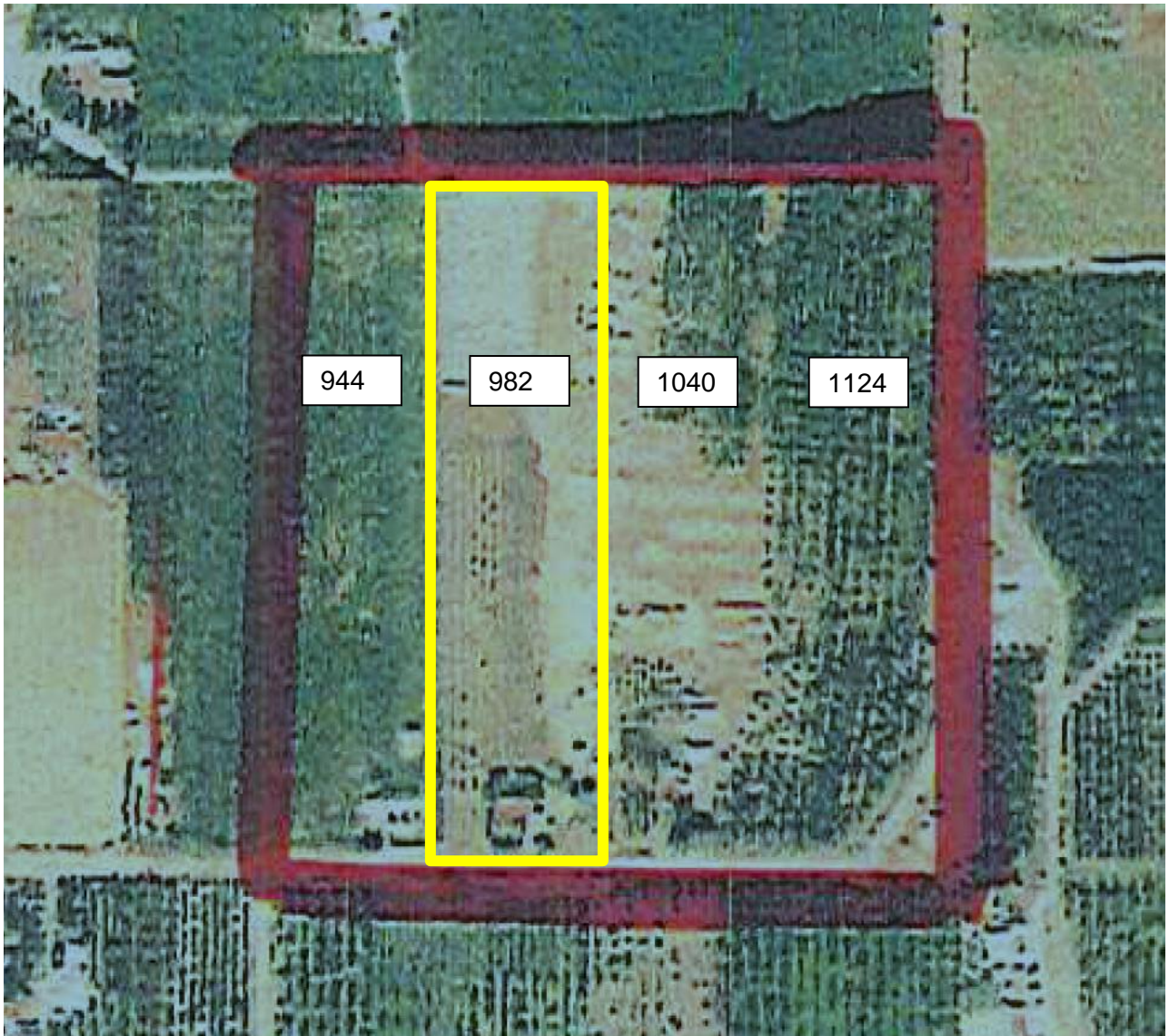
In 1976, the sawmill operation focused on the subject property (Lot 2) 1040 Old Vernon Road. This was shortly after the establishment of the ALR.

Air Photo 1984 (Russo)



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

Air Photo 1985 (Russo)



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 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 (Russo)

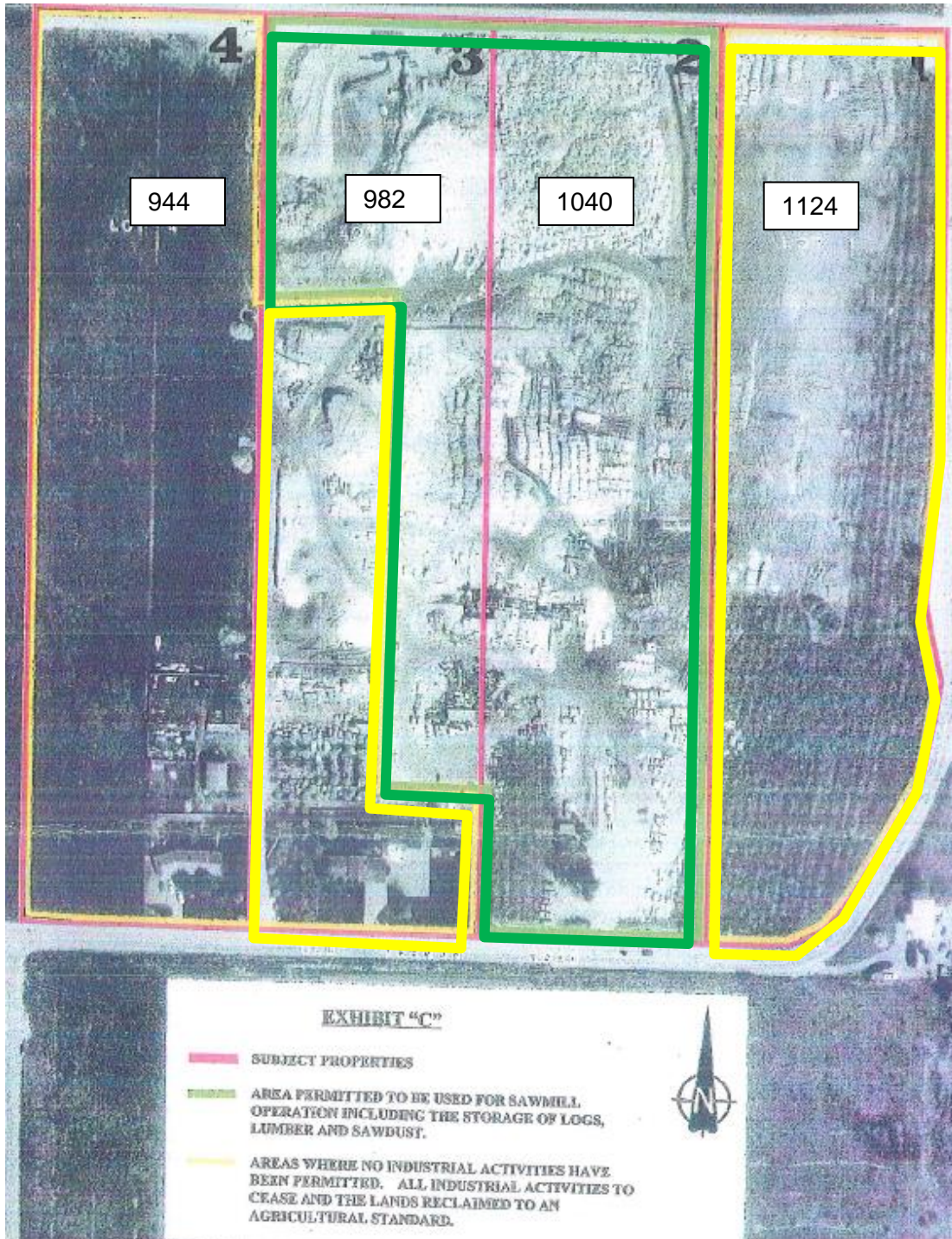


In 1998, due to neighbours complaints, the ALC conducted a site visit that revealed impacts on Lots 1, 2, 3 and 4, including a series of ditches and ponds to capture leachate from the operation. At the time, the ALC provided a letter in response to the expanded activities:

'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'.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;

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

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

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 \$30,000 bond for fencing. • Lots 1 and 4 are to be returned to agricultural standard. • "Clean Wood" only.

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

Map 6 – Air Photo 2006



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.

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.

2015 – Air Photo



2.3 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 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:

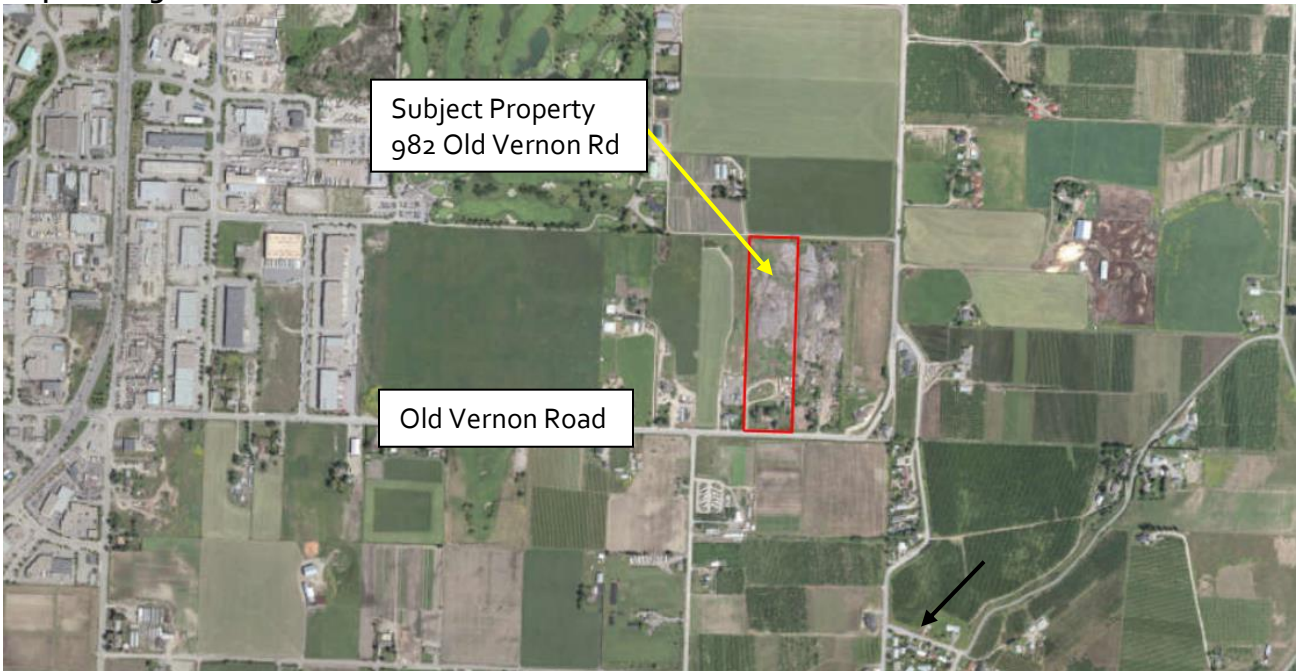
Parcel Size:	4.04 ha (10 acres)
Elevation:	414 to 423 metres above sea level (masl) (approx.)

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
West	A1 - Agriculture 1 / ALR	Agriculture

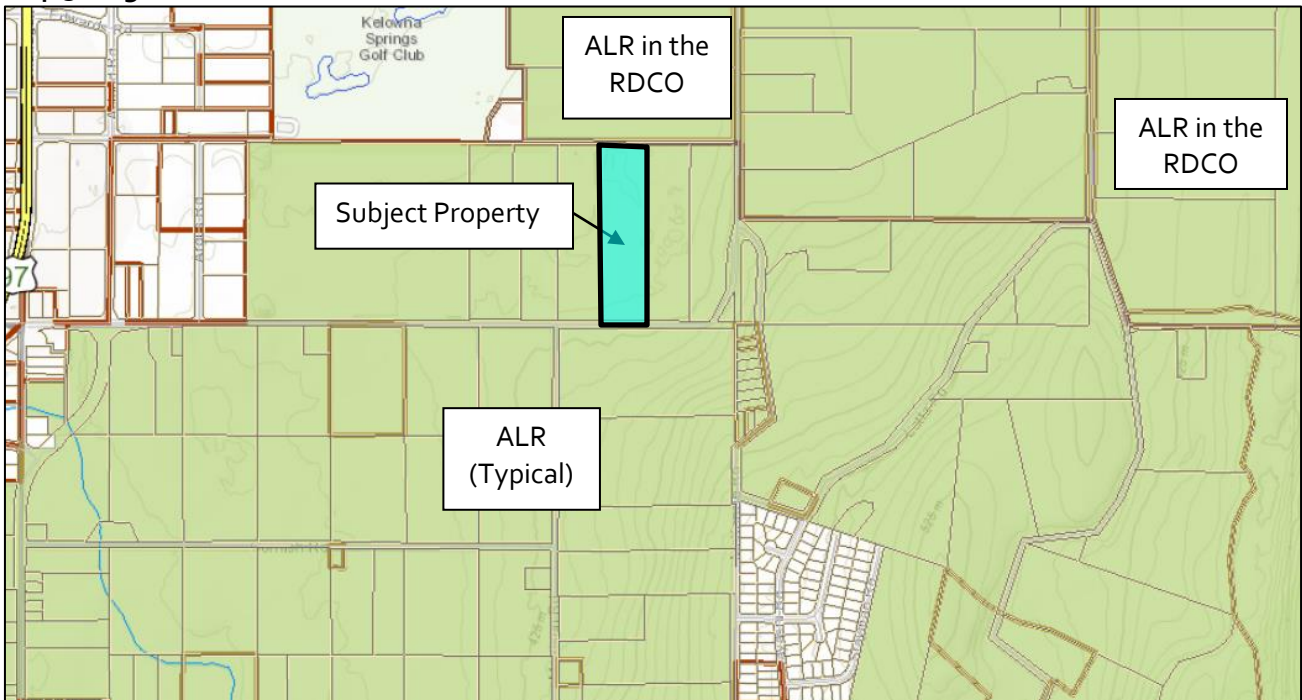
Map 1 – Neighbourhood Context



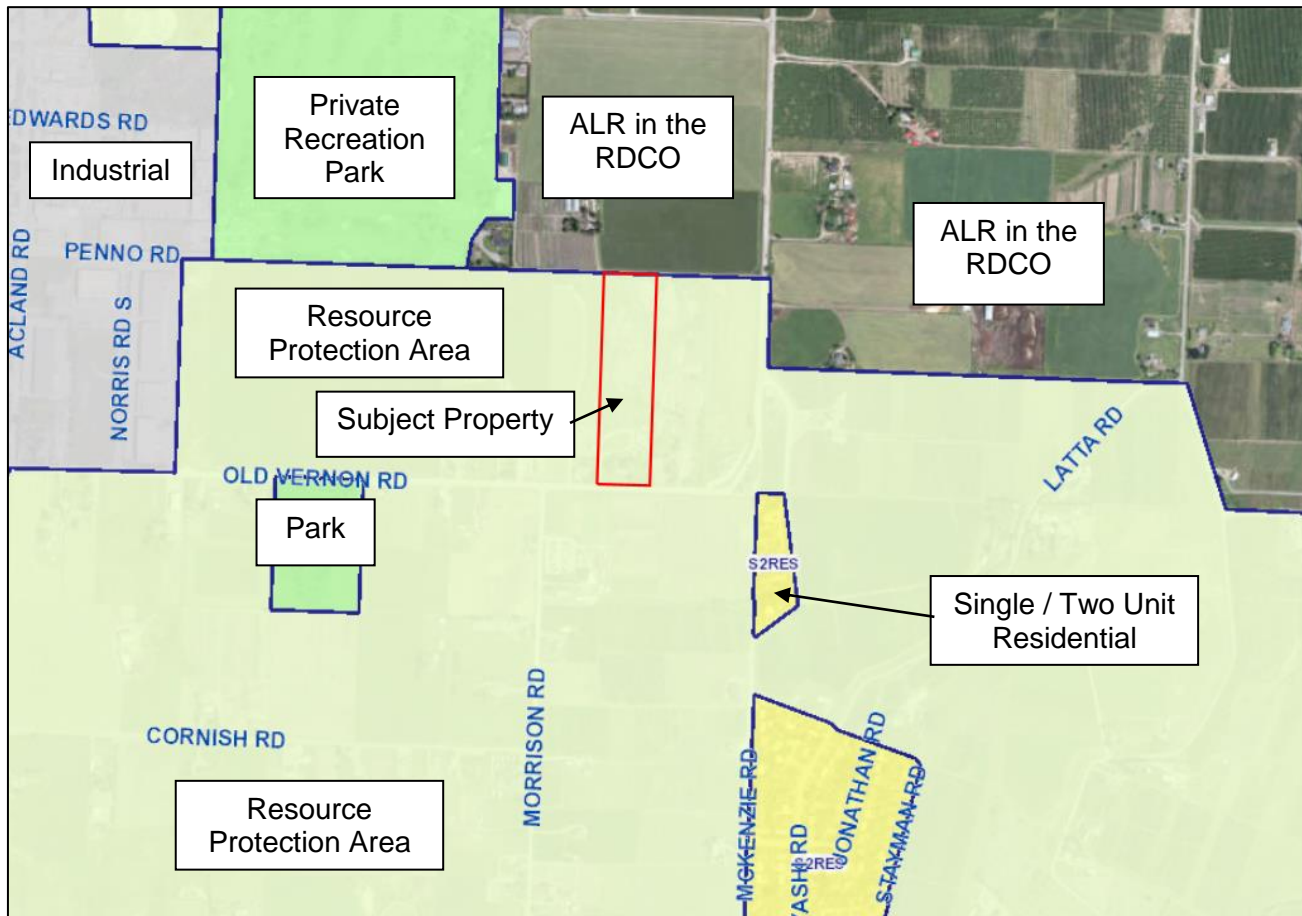
Map 2 – Permanent Growth Boundary



Map 3 – Agricultural Land Reserve



Map 4 – Future Land Use



2.4 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.

2.5 982 Old Vernon Road – Exclusion Application 2013

In 2013, an application for exclusion was submitted for 982 Old Vernon Road in 2013. The application was not supported by the Agricultural Advisory Committee or Council, and was refused by the ALC through Resolution #93/2014. Comments for this application are included below.

2.6.1 Agricultural Advisory Committee – A13-0004 – 2013-02-06

MOVED BY Gill Green/SECONDED BY Yvonne Herbison
THAT the Agricultural Advisory Committee NOT support Application No. A13-0004 for 982 Old Vernon Road, to obtain approval from the Agricultural Land Commission (ALC) to exclude approximately 4.04 ha (9.99 acres) from the Agricultural Land Reserve to facilitate a future rezoning of the subject property to an Industrial Use (i.e. I6 - Low Impact Transitional Industrial).
CARRIED

ANECDOTAL

COMMENT:

The Agricultural Advisory Committee did not support the application for exclusion, however, encouraged the Applicant to bring back another application if they could demonstrate a net benefit to agriculture. The AAC is concerned that putting an industrial use into the area would result in increased traffic and pressure for urban services in an otherwise rural area. While the AAC is unclear as to viable agriculture opportunities on the property, the AAC recommends the Applicant explore incorporating manure from a nearby feedlot and other organic materials (i.e. nitrogen sources) with the existing wood waste (i.e. carbon source) to create a great compost product. Another option would be a greenhouse operation, or other activity that does not involve soil based agriculture.

2.6.2 Regional District of the Central Okanagan – A13-0004 – 2013-02-25

The subject property is located adjacent to lands located within 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'.

While it is recognized that there has been a longstanding non-farm use of the property, Planning staff questions the need and rationale for excluding this parcel from the ALR. The proposal is not in keeping with the above noted policy of the Ellison OCP and RDCO staff is concerned that there will be serious adverse impacts on neighbouring farm operations over the long-term should the subject parcel be excluded from the ALR and subsequently rezoned to allow industrial use. We note that a similar ALR exclusion application recently considered by the RDCO was refused by the Agricultural Land Commission on the grounds that the long-standing non-farm use (as established prior to creation of the ALR) could simply continue on the site. The ALC also advised that agricultural potential of the site may be achieved upon reclamation in the future. Of final note, planning staff recommends that input from neighbouring landowners should be given careful consideration prior to City Council review of the ALR exclusion application.

2.6.2 Policy & Planning – City of Kelowna – A13-0004 – 2013-02-06

The subject property has a land use designation of Resource Protection Area (REP) in the current Official Community Plan (OCP) and is zoned for Agriculture (A1). The property is outside of the Permanent Growth Boundary but is within the ALR.

This application is for an exclusion from the ALR to allow for a Low Impact Transitional Industrial (I6) use. If the applicant is successful at removing the land from the ALR then they will require an OCP amendment as well as a rezoning to facilitate their proposed use for the property.

Goal 9 of the OCP (Enable Healthy and Productive Agriculture), speaks to protecting agricultural lands. In addition, this application is contrary to the following policies in the current OCP: Objective 5.33; Policy 1 (Protect Agricultural Land), is intended to retain the agricultural land base; Objective 5.33; Policy 2 (ALR Exclusions), says that the City will not support ALR exclusions except in extraordinary circumstances. Therefore, this application does not comply with the current OCP.

3.0 Current Development Policies

3.1 City of Kelowna Agriculture Plan (1998)

ALR Application Criteria⁶

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

Objective⁷: Sensitively integrate new development with heritage resources and existing urban, agricultural and rural areas.

Action towards this objective⁸: 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 Area⁹

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 Boundary¹⁰

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.

⁶ City of Kelowna Agriculture Plan. 1998. P. 130.

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

⁸ City of Kelowna Strategic Plan. 2004. P. 29.

⁹ City of Kelowna 2030 Official Community Plan. Future Land Use Chapter. P. 4.2.

¹⁰ City of Kelowna 2030 Official Community Plan. Future Land Use Chapter. P. 4.6.

Chapter 5 – Development Process

Objective 5.3 Focus development to designated growth areas.

Policy .1 Permanent Growth Boundary¹¹. 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 agriculture¹².

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 forward 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.

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 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).

¹¹ City of Kelowna 2030 Official Community Plan. Development Process Chapter. P. 5.2.

¹² City of Kelowna 2030 Official Community Plan: Agricultural Land Use Policies Chapter. P. 5.35.

- 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

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 reference.

5.0 Application Chronology

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

Report prepared by:

Melanie Steppuhn

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

Attachments:

Applicant's Plans
Site Photos
Ministry of Agriculture Referral Letter (A. Skinner)
Applicant ALC Act Application for Non-Farm Use with Site Plans
Agrology Report – Valhalla Environmental Consulting Inc. – 982 Old Vernon Road (2013)