



Potential risks of expanded industrial operations to the property and adjacent farms include:

- Potential contamination to surface and ground water<sup>3</sup>;
- Potential groundwater rise and flooding potential (due to proposed concrete crush layer to support concrete waste piles, trucks and recycling equipment);
- Potential fires (previous cost to City of Kelowna for Fire Protection: \$80,000<sup>4</sup>); and
- Potential nuisance to nearby farms and residents<sup>5</sup>;

City of Kelowna Staff investigated the potential of using the residual wood from the Russo Sawmill for cogeneration and/or composting<sup>6</sup>. Unfortunately, over time, the wood has lost both the heat units required for cogeneration and the nutrient value (nitrogen and carbon factors) required for beneficial composting.

Staff notes that 1040 Old Vernon Road is within the Intensive Agriculture Area of the A1 – Agriculture 1 zone. 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 and Medical Marihuana Production Facilities.

The Agricultural Advisory Committee unanimously defeated the application, expressing concern that the proposal is not consistent with policies and preservation of agricultural land and negatively impacts surrounding agriculture. The Committee also expressed concern that this places unnecessary strain on existing utilities not resourced for industrial use and opens industrial activity in a large ALR area and resulting negative impacts on maintenance of the ALR as an agricultural reserve.

Should Council wish to consider an alternate resolution, one has been provided in Section 7.0, which outlines an option for a Temporary Use Permit consistent with the terms of the ALC Resolution #497/2000, which states that permitted recycling activities include:

- Clean woodwaste recycling; and
- Pallet recycling.

ALC Resolution #497/2000 specified wood waste only, as was consistent with the previous sawmill operation and the Clean Wood Dropoff Zone permitted for the Russo Sawmill. It excludes concrete and general demolition waste, including drywall, wires, and metals.

## **4.0 Proposal**

### **4.1 Project Description**

The application is for a non-farm use from the ALC to operate a recycling facility for demolition and construction waste. Specifically, the proposal is to recycle concrete and wood on the subject property. A small volume of brick is anticipated. The owner has indicated that metal recycling is not the focus of the operation, and any incidental metal would be put in a container, and removed from the property when full. The disposal or recycling of gypsum board is not a part of this proposal.

The proposal includes crushing concrete for potential reuse in construction. Recycled concrete has potential reuse as a sub-base for sidewalks and non-structural fill. Dust mitigation is proposed through applying water to the crusher during processing. The owner has indicated that the crushed product would be spread over the site to provide a solid base upon which the concrete can be placed and trucks, screeners and crushers can

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<sup>3</sup> City of Kelowna, 2007, July 31. Bylaw Complaint, City of Kelowna tested water in dug outs finding high levels of toxins.

<sup>4</sup> Valhalla Environmental Consulting Inc, 2013. Land Capability Assessment – 982 Old Vernon Rd p. 4

<sup>5</sup> City of Kelowna, 2011 through 2016, Bylaw Complaints, City of Kelowna, various complainants.

<sup>6</sup> Hoekstra, S. and Light, G., June 16, 2017. Personal Communication.

operate. The depth of crushed material would depend on the underlying soil and what would be needed to support roads, the concrete material and the crushing and screening equipment.

A large amount of large diameter wood waste remains on the site from the Russo Sawmill. This was primarily deposited from the mid 1980's to the early 2000's. Through discussions with City landfill staff, it was determined that, through time, this wood has lost much of its carbon value, such that the burning potential (BTU potential) has been diminished such that it is no longer suitable for cogeneration. Similarly, the nitrogen values have degraded such that the wood waste does not hold value as an additive to the City's Ogotrow program<sup>7</sup>.

The proponent has indicated that cogeneration of the existing wood may be possible with the addition of new wood received from demolition. The intention for the wood recycling is to seek a contract with a cogeneration plant, (the closest being Tolko in Armstrong). To date, a contract with Tolko has not been confirmed.

The use of **Recycling Plants**, as defined by the City of Kelowna Zoning Bylaw 8000, are permitted only in the I<sub>3</sub> – Heavy Industrial zone and the 1-5 – Extraction zone. The use of **Concrete and Asphalt Plants** are permitted in the I<sub>3</sub> – Heavy Industrial zone, I<sub>4</sub> – Central Industrial and the 1-5 – Extraction zones<sup>8</sup>.

The application proposes a future land use of Industrial for the parcel, specifically I<sub>2</sub> – General Industrial or I<sub>3</sub> – Heavy Industrial. Such a use would require an Official Community Plan amendment to the Permanent Growth Boundary, the Future Land Use, and a rezoning amendment, should the City and the ALC approve the non-farm use from the ALR.

The City of Kelowna Landfill accepts demolition and construction waste at \$65.00 per metric tonne, and stumps at \$65.00 per metric tonne. Logs, limbs and branches are accepted at \$10.00 per metric tonne if they are cut to 1.2 m (4') lengths.

This application is seeking approval for the use from the Agricultural Land Commission. Should the use be approved, it would need to be further permitted by the City of Kelowna through a rezoning of the property, text amendment to the A<sub>1</sub> zone, or a Temporary Use Permit.

For wood recycling, an option for zoning is a Temporary Use Permit (TUP). Through a TUP, with a three year maximum window, with a three year possible extension, to provide the applicant to demonstrate that the wood recycling facility is done so as to reduce the existing wood but not impact future agricultural potential or adjacent farming operations.

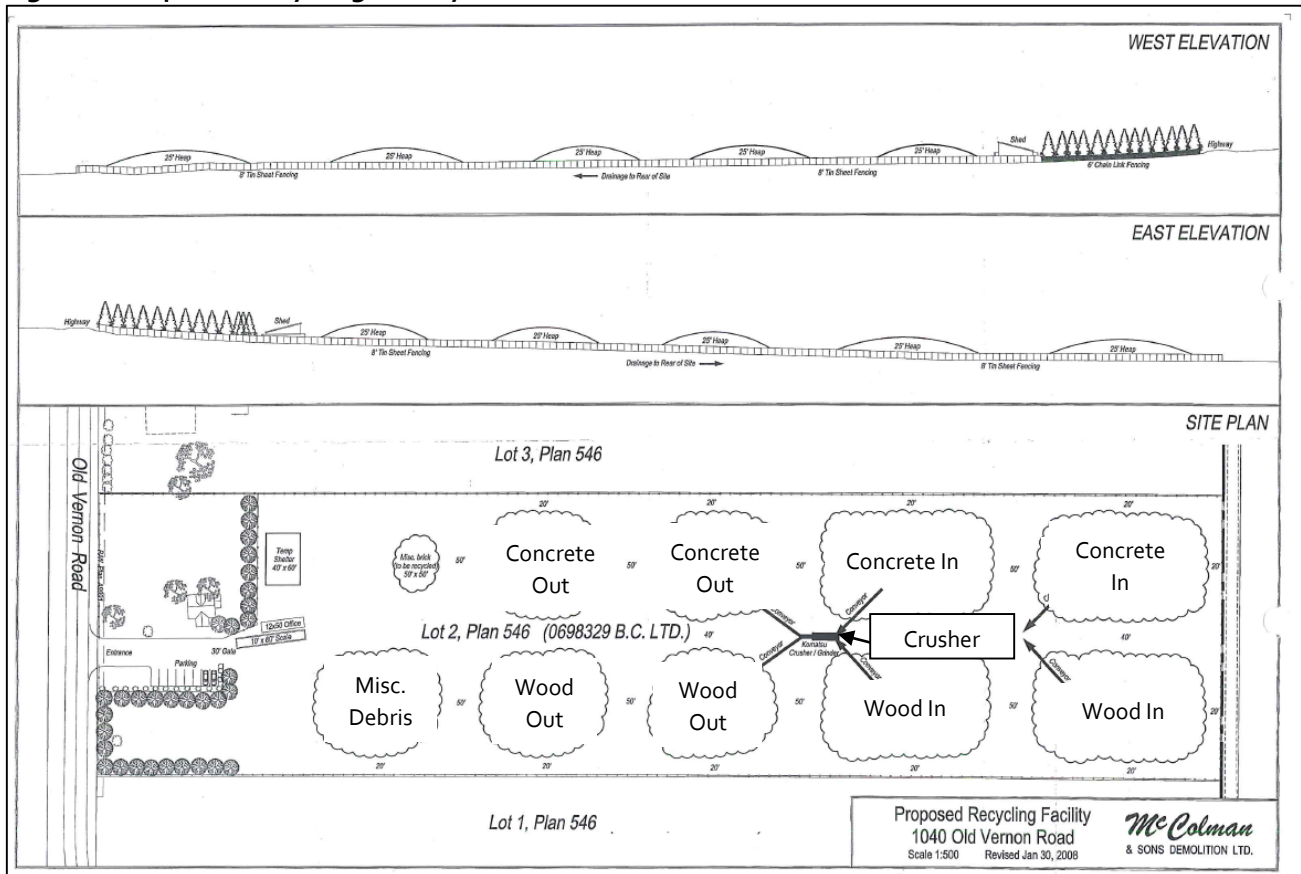
A plan of the proposed operation is included below.

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<sup>7</sup> Hoekstra, S. and Light, G., June 16, 2017. Personal Communication.

<sup>8</sup> City of Kelowna, 2017. Zoning Bylaw 8000 – Section 15 Industrial Zones

Figure 1. Proposed Recycling Facility



#### 4.2 Background

In 1972, at the creation of the ALR, and prior to amalgamation of the site into the City of Kelowna, the Russo Sawmill footprint was approximately 1.0 ha (2.47 acres) at 1040 Old Vernon Road. The use was expanded through the years, with corresponding complaints to the ALC and applications to expand the use. 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.

Through the 1980's and 1990's, merchantable timber contracts became difficult to secure for a sawmill of this size, and the Russo Sawmill diversified into other products utilizing waste products from the mill and other sources. Clean wood waste material that would have been burned or buried was recycled into lumber or pallets at the sawmill site. It was designated as a 'Clean Wood Drop Zone' by the City of Kelowna and the Regional Waste Reduction Office. 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.

Two ALC 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, woodwaste 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 be erected on the east, north and west property line.

However the non-farm uses according to the resolutions were not followed, leading to a further deterioration of the site, including impacts to adjacent waterways, as well as nuisance impacts to adjacent farming operations, making it challenging for adjacent parcels to farm. After the sale of the properties by the Russo's in 2004, the sawmill and its equipment was dismantled and is no longer there to enable the milling and construction of pallets or the chipping or mulching of wood waste.

In 2006, the current owner sent a letter to the City of Kelowna inquiring about establishing a concrete and wood recycling facility on the site<sup>9</sup>. The City of Kelowna Planning Department responded that, prior to the City of Kelowna's *consideration* of the use, any non-farm use would require the approval of the ALC and input from the Black Mountain Irrigation District<sup>10</sup>. The proponent contacted the ALC and subsequently provided a \$30,000 letter of credit to construct a fence around the property, which was an outstanding condition of the previous non-farm use approval through ALC Resolution #497/2000. The ALC then provided a letter stating that the use of the property for "*recycling of construction wood, metal, concrete and trees to be largely consistent with the sawmill/wood recycling non-farm uses permitted by Resolution #437/2000*", and further stated that there was "*no objection to the issuance of a business license for the recycling facility by the City of Kelowna*"<sup>11</sup>.

In 2007, 1040 Old Vernon Road was purchased by McColman & Sons Demolition Ltd. (MDL). A business license was not issued for the use by the City of Kelowna. In June, 2007, the City of Kelowna advised that the legal non-conforming use (the sawmill) was no longer in existence, and the proposed recycling operation and the recent activities on the site extended beyond what was permitted by the historical use, and insisted that current operations cease<sup>12</sup>. Site visits by City of Kelowna bylaw staff confirmed that the site was being used as a dump site for cement, drywall, household waste without regard for surface water running through the property and connecting to streams in the area<sup>13</sup>. In July, 2008, a site visit with ALC and City of Kelowna compliance staff revealed trenches with black dirty water and unsorted variety of building demolition materials including insulation, electrical wiring, roofing shingles, stove, cardboard, wood, tar paper and drywall. On July 29, 2008, a Stop Work Order was placed by the ALC on the site, citing that the recycling operations had expanded beyond the sawmill/recycling non-farm uses permitted through Resolution #497/2000, and that work must cease until the use be authorized through either an exclusion from the ALR or a non-farm use approval for the use.

This application is seeking approval for the use from the Agricultural Land Commission. Should the use be approved, it would need to be further permitted within by the City of Kelowna through a rezoning of the property, text amendment to the A1 zone, or a Temporary Use Permit.

More of the history of the site is included below.

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<sup>9</sup> MDL, Dec. 5, 2006. Letter re: Old Louis Russo Properties on Old Vernon Road Proposed Non-Hazardous Recycling Facility.

<sup>10</sup> Email, Dec. 19, 2006. S. Gambacort, RE: Old Louis Russo Properties

<sup>11</sup> ALC, Jan. 25, 2007. Letter to A. McColman, MDL, RE: Lots 2 and 3, Plan 564 TWP 23, ODYD

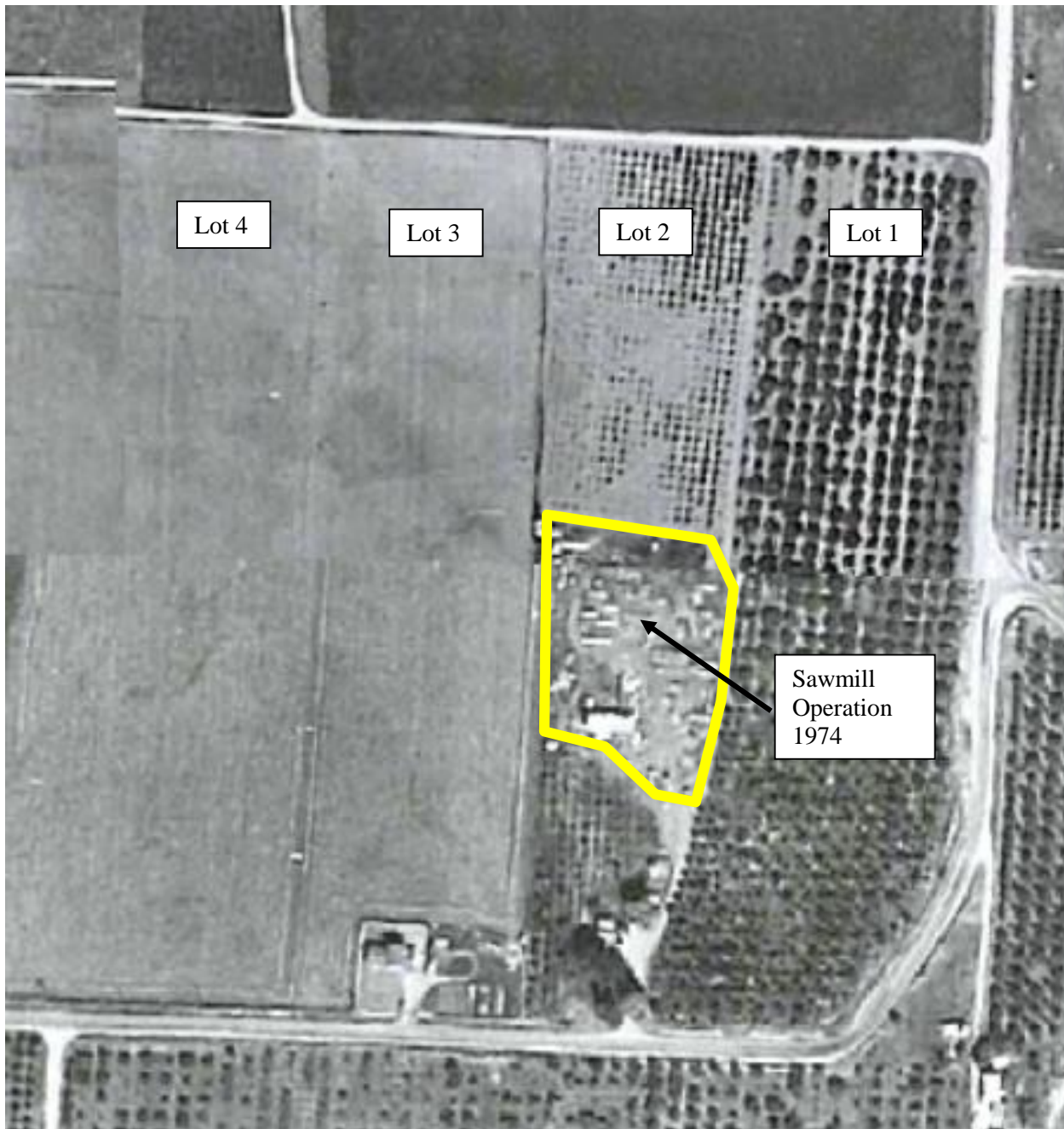
<sup>12</sup> City of Kelowna, June 18, 2007. Correspondence (per Application A16-0011)

<sup>13</sup> City of Kelowna, July 31, 2008. Bylaw records

Air Photo 1970

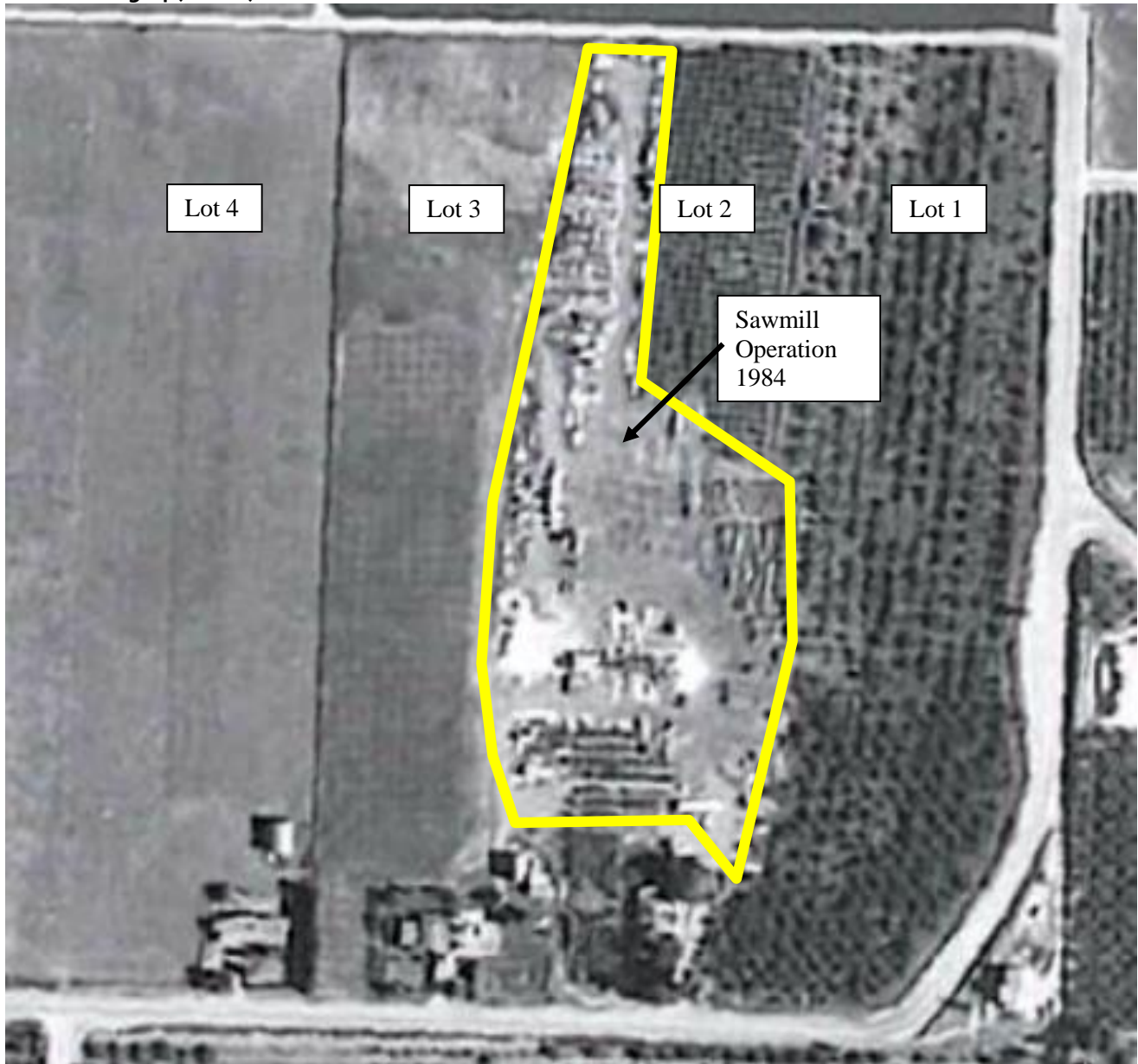


Air Photo 1976 (Russo)



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 Lot 3.



Air Photo 1985 (Russo)

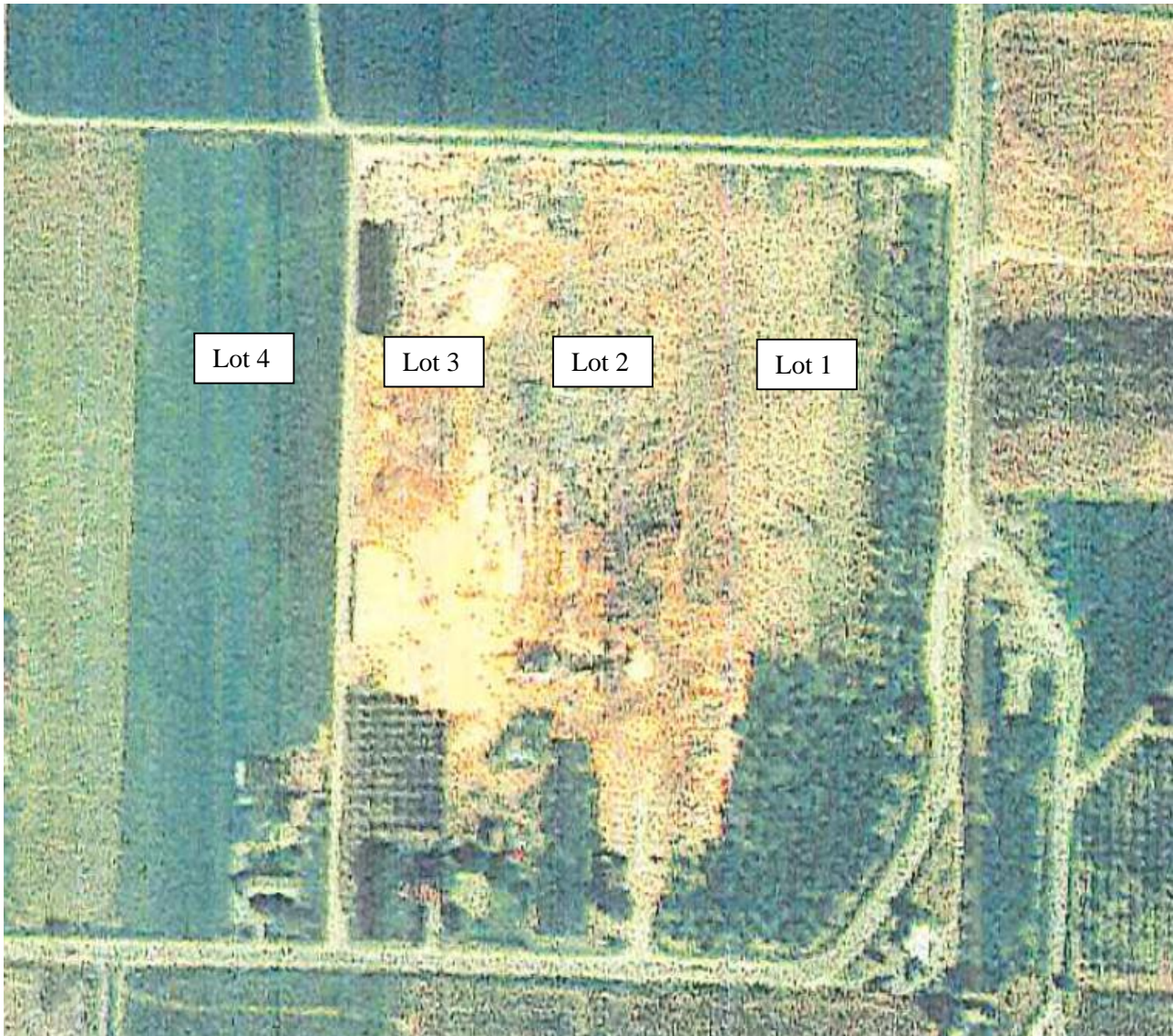


By 1985, the sawmill operation had expanded beyond the subject property, over 1.7 ha in area of Lot 3. In response to complaints from a neighbour, the owner made an application to the ALC to expand the sawmill operations to Lot 3. Through Resolution # 993/85, authorization was granted, for a limited area of 1.7 ha, specifically for storage of logs, lumber and sawdust. This resolution was subject to the owners to avoid 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.

**Table 1**

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 the remainder of lot continued its use of agriculture. <b>Any change to this would require ALC review.</b>

Air Photo 1999 (Russo)



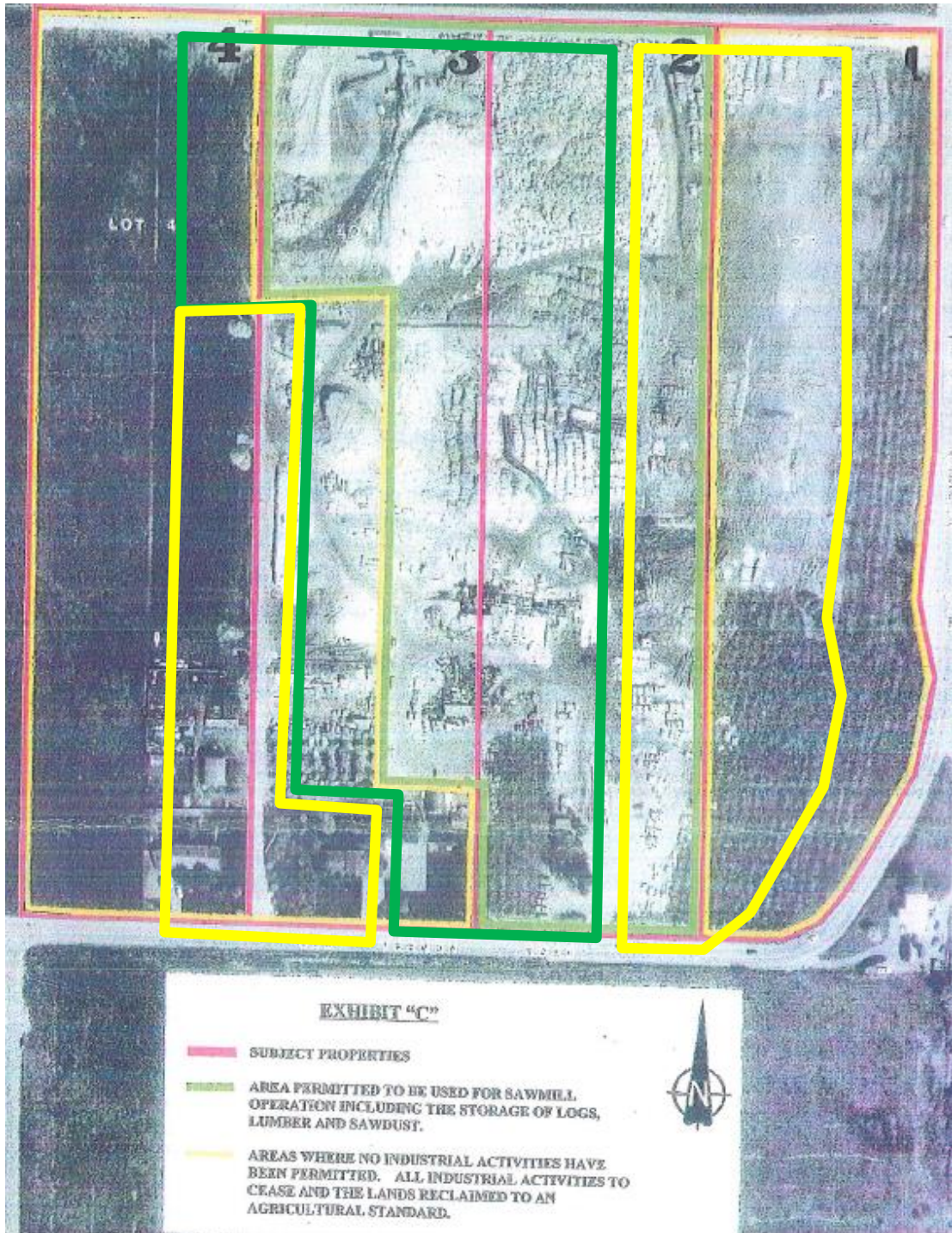
In 1998, due to neighbours complaints, the ALC conducted a site visit that revealed impacts on Lots 1, 2, 3 and 4, including a series of ditches and ponds to capture leachate from the operation. At the time, the ALC provided a letter in response to the expanded activities:

*'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'.<sup>14</sup>*

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<sup>14</sup> ALC, June 4, 1998. Letter to Russos 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. This included restoring agriculture to all of Lot 1, and half of Lot 3, which was the area that had not been authorized through resolution #993/85 for the storage of lumber, logs and sawdust.

Table 2

Date	Action	Result / Direction
Aug. 7, 1997	ALC Compliance Letter <ul style="list-style-type: none"> <li>• Reports of wood dumping, recycling, selling pallets.</li> </ul>	Comply to ALC Resolution #993/85.
April 21, 1998	City of Kelowna Compliance Letter <ul style="list-style-type: none"> <li>• Breach of Soil Conservation Act, use contrary to approvals, and fire hazard.</li> <li>• On Regional Waste List for recycling wood.</li> </ul>	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"> <li>• Failure to comply with Neighbour Agreement per ALC Resolution #993/85.</li> <li>• Use contrary to approval, site now being used for wood waste recycling.</li> <li>• Dug outs collecting water.</li> <li>• Agriculture on Lot 2 almost completely gone.</li> </ul>	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"> <li>• Activities had expanded beyond the approval #993/85, both in area (Lots 1, 3 and 4), as well as use expansion into wood recycling.</li> </ul>	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, <b>with a maximum area of 5.7 ha.</b>
June 14, 1999	ALC Order # 368 and 369/99 <ul style="list-style-type: none"> <li>• Requirement to restore any lands to agricultural standard not included in the #993/85 approval.</li> <li>• Requirement to post a bond of \$500,000 to ensure restoration of lands occurs.</li> </ul>	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 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, concerns of the ALC included:<sup>15</sup>

- 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; and
- Demolition debris could contain chemicals from glues and preservatives.

An application was 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 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.

<sup>15</sup> ALC, June 6, 2000. Resolution #437/2000.

**ALC Resolution #437/2000** – The ALC resolution allowed sawmilling and woodwaste recycling/composting, and pallet recycling, as a use on the property. The ALC conditions required:

- Required the installation of a fence on the west, east and north boundaries;
- No composed material was to be placed in the ALR unless sanctioned by the ALC;
- No turf farming without soil sampling and testing to the satisfaction of the ALC; and
- Required the reclamation of Lot 1 to agriculture.

**Table 3**

Date	Issue	Action
	ALC Resolution #437/2000	<ul style="list-style-type: none"> <li>• Granted permission to use all of Lots 2 and 3 for sawmilling, woodwaste 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.</li> <li>• Require a fence along entire east, west and north boundaries.</li> <li>• ALC has a \$30,000 bond for fencing.</li> <li>• Lots 1 and 4 are to be returned to agricultural standard.</li> <li>• "Clean Wood' only.</li> </ul>
<b>2009</b>		

Air Photo 2006



In 2007, McColman and Sons Demolition Ltd. purchased the property to operate it as a waste recycling company. They also own an industrial parcel on Neave Road, purchased in 2003, used for the operation.

Table 4

Date	Issue	Action
<b>2006-2008</b>		
Dec. 5, 2006	Letter from McColman & Sons Demolition Ltd. (MDL) to City of Kelowna asking for a variance to recycle wood, concrete and trees.	Email response Dec. 19, 2006
Dec. 19, 2006	CoK email to MDL, advising that the applicant would need to get ALC approval prior to the <i>consideration</i> of the City of Kelowna.	Letter from MDL Dec. 20, 2006
Dec. 20, 2006	MDL letter to CoK suggesting a dug out to address fire flow concerns and notice that they will contact the ALC.	Letter from ALC Jan. 4, 2007
Jan. 4, 2007	ALC letter to MDL advising that by Resolution #437/2000, the wood recycling facility was conditional on the reclamation of 1124 Old Vernon Road and the construction of a fence around the facility, north, west and east sides.	Letter from MDL Jan. 24, 2007
Jan. 24, 2007	MDL Letter to ALC providing a letter of credit to construct the fence.	ALC Letter Jan. 25, 2007
Jan. 25, 2007	ALC Staff Letter RE: Business License for McColman and Sons Demolition Ltd., stating that considered all conditions of #437/2000 to be substantially complete, and had no objection of the issuance of a business license for the recycling facility for construction wood, metal, concrete and trees, that it was largely consistent with Resolution #437/2000.	Subsequent purchase of property by MDL
June 18, 2007	CoK letter to MDL advising that the non-conforming use protection of the sawmill and the associated permitted recycling of wood permitted per Resolution #437/2000 was no longer in existence, and operations should cease immediately.	<b>Note: No business license was issued to MDL from the City of Kelowna.</b>
July 29, 2008	ALC correspondence to MDL advising that the operations had expanded beyond uses permitted in Resolution #437/2000, and issued a Stop Work Order pending an exclusion or non-farm use application.	Stop Work Order (ALC)
2008-05-13	Complaint of dumping mixed construction waste.	Advised to stop bringing materials on site.
2008-05-14 to 2008-05-28	Activities continue. Owner states all items are being recycled.	Attended site. Called owner, organized meeting.
2008-07-10	Site visit with City and ALC staff. Observed leaching of black water, variety of unsorted waste, including insulation, wiring, roofing shingles, stove, cardboard, wood, tar paper, and general demolition debris. Large amount of drywall in a crevice, appearing to be dumped verses ready to recycle. Cement crushing machine on site. ALC confirmed that the site was not being used as intended.	City and ALC staff attend.
2008-07-15	Cement and debris appear continue to be dumped. Observed oil like substance on a pond along with sludge, making its way to farmer's field.	Additional neighbour's complaints. Attended site.
2008-07-16	Staff attended noting additional material. Cardboard and metals are not separated as would be expected in a recycling operation. Materials do not appear to leave the site.	Additional complaints. Attended, requested testing of water.
2008-07-29	Dumping cement, drywall, household waste without regard for nearby streams City tested water finding high levels of toxins affecting drinking water for residents.	ALC Stop Work Order issued



Air Photo 2009



Table 5

2009		
2009-07-28	Staff attended, noted that much of the material had been ground up, and new material was not observed.	Attended site.
2009-08-05	Owner indicated that dumping of yard waste noted was without owner's permission.	Communication with owner.
2009-08-09	Staff noted the No Dumping sign removed.	Arrange for new posting, new stop work order.
2009-08-16	Staff asked ALC to give notice to remove items on the property not associated with approved use.	Staff contacted ALC.
2009-09-15	Complaint of storage of trailers, boats, trucks and backhoes.	Complaint – storage of trailers, boats, equipment.
2010		
2010-08-16	Discussion with ALC to send letter of non-compliance.	Discussion with ALC to send letter of non-compliance.
2011		
2011-02-23 to 2011-02-28	Staff found storage of derelict vehicles, debris, garbage cement contrary to zone.	Mailed 'Unightly Premises' and 'Use contrary to zone' notice; spoke with ALC staff for progress report, spoke with owner.
2011-05-11	Meeting with ALC Staff and owner	Owner was to make an application to the ALC to get non-farm use approval for the operation.

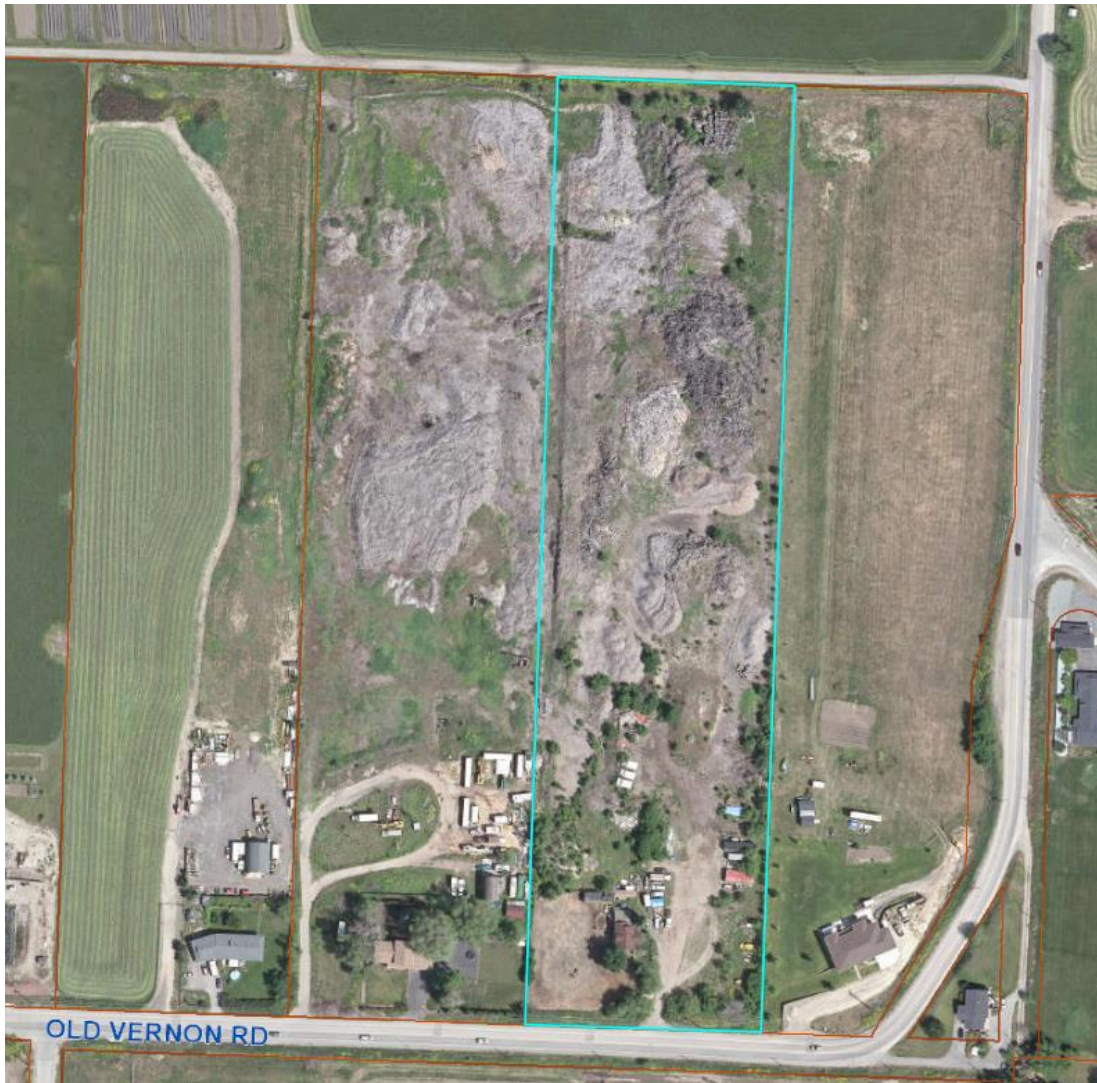
Air Photo 2012



Table 6

2013		
2013-01-30	Confirmed with ALC staff that storage of demolition trucks not permitted.	Sent letter 'Use contrary to Zone'.
2013-04-04	Court date for ticket offence.	Owner plead guilty and paid fine.
2013-06-18 to	Staff attended with landfill manager, observed tons of mixed, contaminated demolition materials with wood. Concern regarding contaminants.	Copies of photos.

**Air Photo (2015)**



**Table 7**

2015		
2015-11-21 to 2015-12-14	Attended to find use of storage of containers, road stripping equipment, travel trailers.	Stop work order in place, issued ticket 'Use Contrary to Zone'
2016		
2016-02-11	Communication with owner's representative.	Business License on hold. No record business license to MDL had ever been issued.
2016-02-25	Attended to observe storage of bobcats, large machinery, contrary to use	Sent offence notice
2016-03-11	Attended finding no change.	Additional enforcement steps considered
2016-04-27 to 2016-05-11	Complaint issued, unsightly. Attended to observe storage of excavators on site	Issued ticket 'Use Contrary to Zone'
2016-07-07 to 2016-07-28	Attended to observe additional seacan, garbage on site.	Issued ticket 'Use Contrary to Zone'
2017		
2017-01-11	Staff communication with ALC staff. ALC have a \$30,000 bond for fencing (Resolution#437/2000).	ALC have given notice to owner that the fence must be up by May 1, 2017 or the bond will be cashed and used to build the fence by the ALC. No fence to date.

### 4.3 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 1040 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 – 1040 Old Vernon Road:

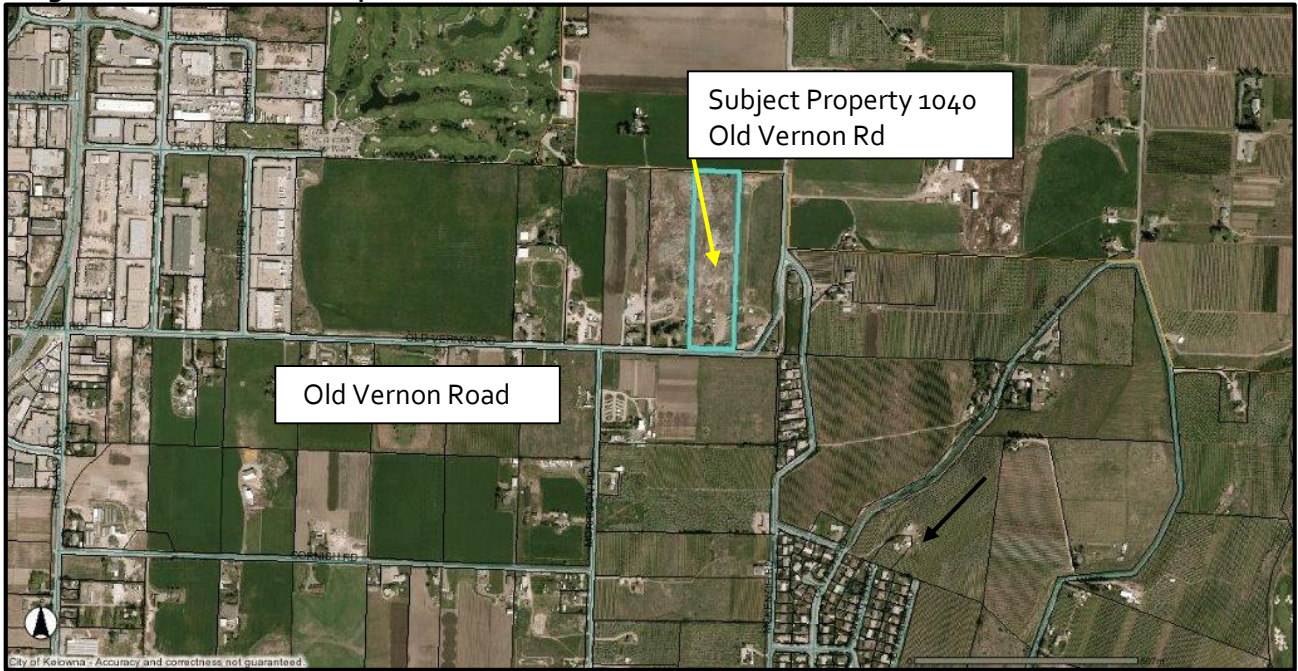
Parcel Size: 4.04 ha (9.99 acres)  
Elevation: 416 to 426 metres above sea level (masl) (approx.)

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. Adjacent land uses are noted in the table below.

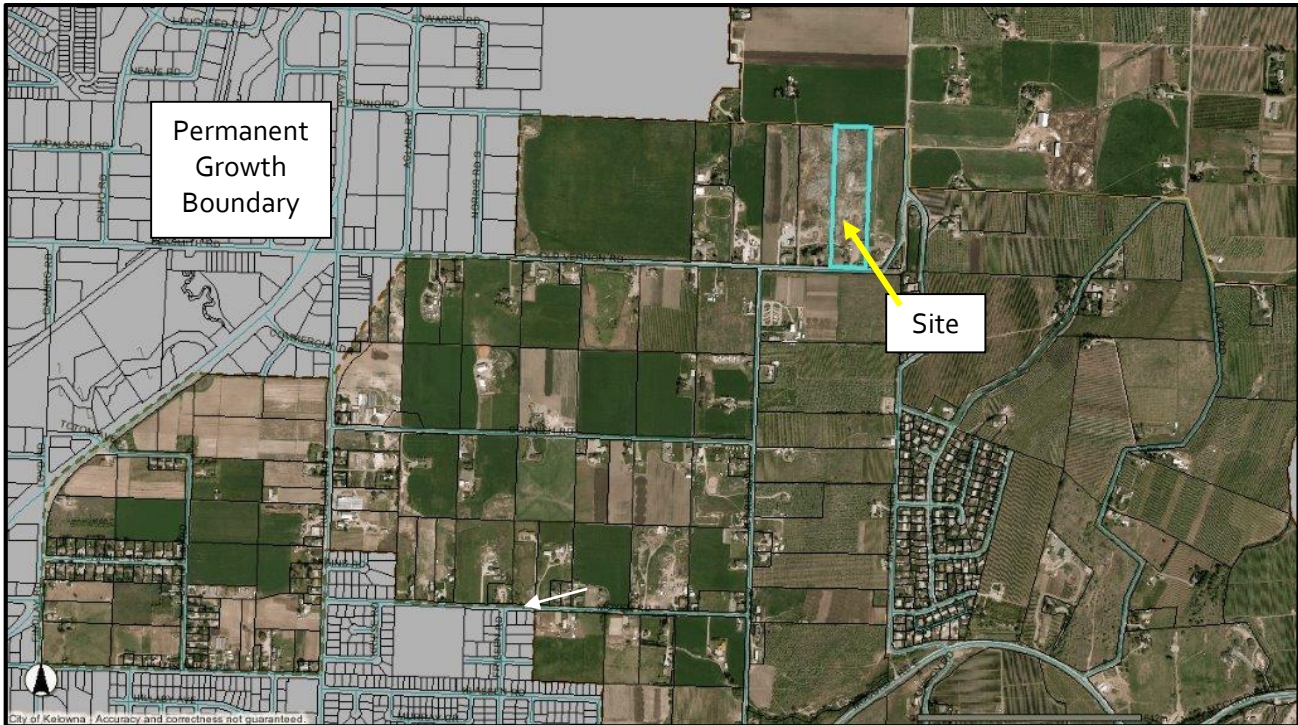
**Table 8**

Orientation	Zoning	Land Use
North	Agriculture (RDCO) / ALR	Agriculture
East	A1 - Agriculture 1 / ALR	Agriculture
South	A1 - Agriculture 1 / ALR	Agriculture / RV Park (Agri-tourism)
West	A1 - Agriculture 1 / ALR	Wood Waste Storage (also former log storage site for the Russo Sawmill)

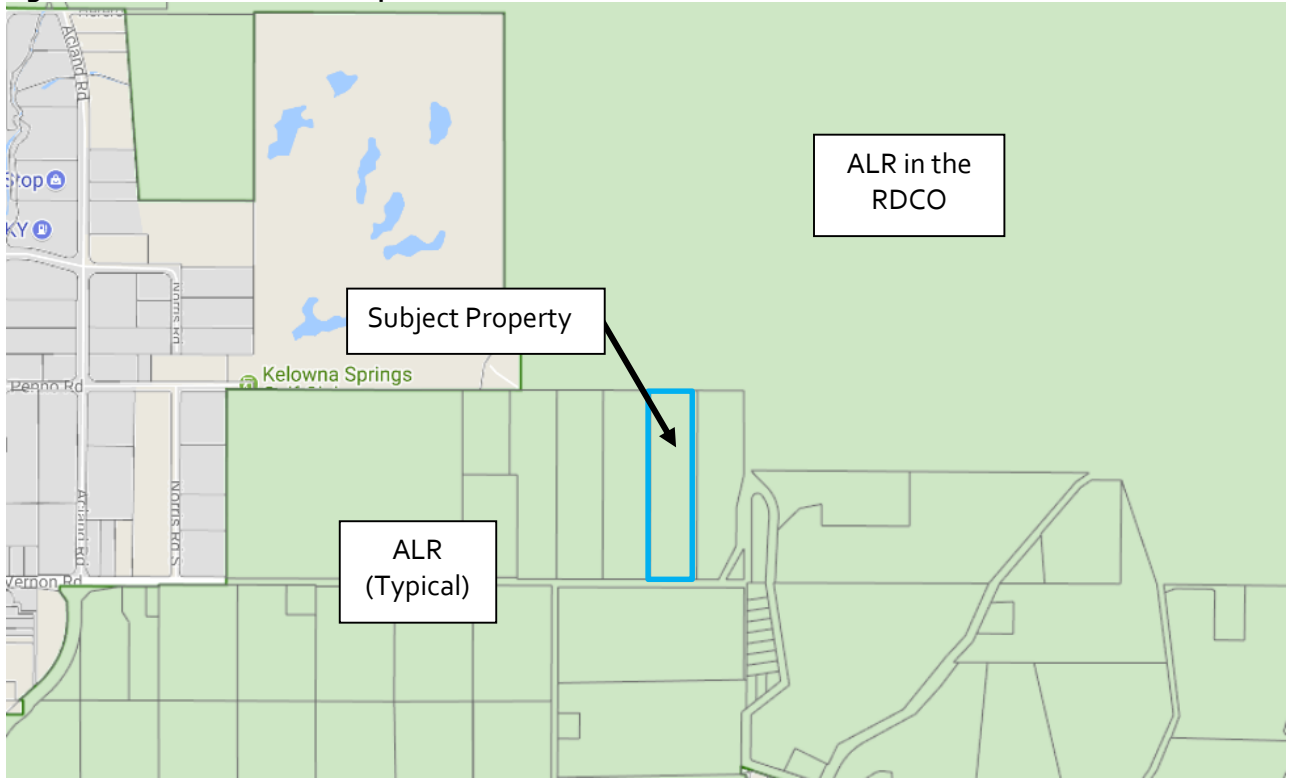
**Neighbourhood Context Map**



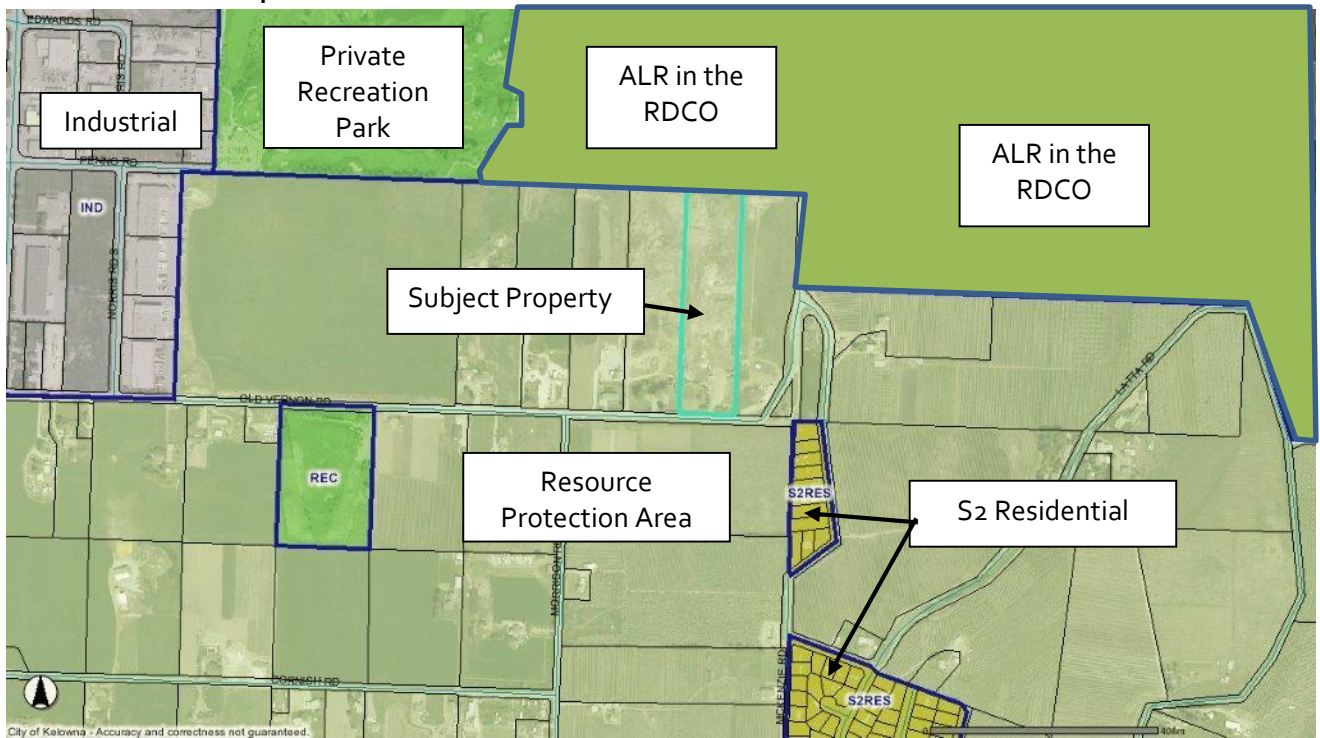
**Permanent Growth Boundary Map**



### Agricultural Land Reserve Map



### Future Land Use Map



#### 4.4 Agricultural Capability Assessment

Staff notes that the Agricultural Capability Assessment<sup>16</sup> was not prepared for the subject property, but for the neighbouring property (982 Old Vernon Road). The conclusions of the report, including the costs estimated to rehabilitate, are for the neighbouring property. The applicant has signed an affidavit stating that the treatment of the property and conditions are similar at the subject property, 1040 Old Vernon Road.

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 estimates the cost to rehabilitate the soil on 984 Old Vernon Road<sup>17</sup>, to improve it to a point where it could support soil based agriculture. This cost included the following for this site:

- \$150,000 – Wood waste grinding
- \$711,698 – Import and spread clean topsoil (27,375 m<sup>3</sup>)
- \$178,941 – Trucking of soil

The total estimated cost to improve the 984 Old Vernon Road to support soil based agriculture noted in the report is \$1,040,639, most of which includes the cost to import soil. It cites that the soil rehabilitation costs prohibit soil based agriculture.

For Intensive Non-Soil Bound Livestock, the report states:

*For access reasons and potential conflict with neighbouring property owners this site is not suitable for non-soil bound livestock. However, it would not be feasible to rehabilitate this area for non-soil bound livestock due to the prohibitive costs of such improvements<sup>18</sup>.*

For Intensive Non-Soil Bound Horticulture, the report states:

*The site is largely level. After remediation this property could be made suitable for Non-soil bound horticultural agriculture operation. However, it would not be feasible to rehabilitate this area for non-soil bound horticulture due to the prohibitive costs of such improvements<sup>19</sup>.*

#### 4.5 Current Development Policies

#### 4.6 City of Kelowna Agriculture Plan (1998)

##### ALR Application Criteria<sup>20</sup>

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.

<sup>16</sup> Valhalla Environmental Consulting, Jan. 2013. Land Capability Assessment 982 Old Vernon Road, (Lot 3) Kelowna, BC

<sup>17</sup> Valhalla Environmental Consulting Inc., 2013. Land Capability Assessment – 982 Old Vernon Road, Kelowna, BC.

<sup>18</sup> Valhalla Environmental Consulting Inc., 2013. Land Capability Assessment – 982 Old Vernon Road, Kelowna, BC.

<sup>19</sup> Valhalla Environmental Consulting Inc., 2013. Land Capability Assessment – 982 Old Vernon Road, Kelowna, BC.

<sup>20</sup> City of Kelowna Agriculture Plan. 1998. P. 130.

## 4.2 City of Kelowna Strategic Plan

**Objective<sup>21</sup>:** Sensitively integrate new development with heritage resources and existing urban, agricultural and rural areas.

Action towards this objective<sup>22</sup>: Evaluate the effectiveness of City policies and bylaws in preserving agricultural lands.

## 4.3 Kelowna Official Community Plan (OCP)

### Land Use Designation Definitions

#### **Resource Protection Area<sup>23</sup>**

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<sup>24</sup>.** 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.

### Agricultural Land Use Policies

**Objective 5.33 Protect and enhance local agriculture<sup>25</sup>.**

**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 .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.

**Policy .6 Non-farm Uses.** Support non-farm use applications on agricultural lands only where approved by the ALC and where the proposed uses:

- are consistent with the Zoning Bylaw and OCP;
- provide significant benefits to local agriculture;
- can be accommodated using existing municipal infrastructure;
- minimize impacts on productive agricultural lands;
- will not preclude future use of the lands for agriculture;
- will not harm adjacent farm operations.

<sup>21</sup> City of Kelowna Strategic Plan. 2004. P. 7.

<sup>22</sup> City of Kelowna Strategic Plan. 2004. P. 29.

<sup>23</sup> City of Kelowna 2030 Official Community Plan. Future Land Use Chapter. P. 4.2.

<sup>24</sup> City of Kelowna 2030 Official Community Plan. Development Process Chapter. P. 5.2.

<sup>25</sup> City of Kelowna 2030 Official Community Plan: Agricultural Land Use Policies Chapter. P. 5.35.



## **Zoning Bylaw 8000**

### **Chapter 2 – Interpretation**

**RECYCLING PLANTS** means a facility within which recyclable materials are recycled, sorted, processed, and treated to return the materials for re-use or as inputs to other processes, and may include Special Wastes under the *Waste Management Act*.

**CONCRETE AND ASPHALT PLANTS** means the processing, manufacturing, recycling, and sales of concrete and asphalt and the accessory manufacture and sales of products made from concrete and asphalt.

### **Chapter 15 – Industrial Uses**

The use of Recycling Plants, are permitted only in the I3 – Heavy Industrial zone and the 1-5 – Extraction zone. The use of Concrete and Asphalt Plants are permitted in the I3 – Heavy Industrial zone, I4 – Central Industrial and the 1-5 – Extraction zones<sup>26</sup>.

#### **5.0 Technical Comments**

##### **5.1 Regional District of the Central Okanagan (RDCO)**

RDCO staff provides the following response to the above-noted referral:

There is a lengthy history regarding the previous land use of this parcel. RDCO's Development Services Manager recalls that there may have been previous application(s) and QP reports completed in conjunction with those application(s). The City should ensure that they are satisfied that adjoining/neighbouring parcels will not be negatively impacted by industrial uses on the subject property.

##### **5.2 Development Engineering Department**

Dev Eng 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.

##### **5.3 Bylaw Services**

Bylaw Services have provided a detailed listing of bylaw enforcement actions on the site, which has been summarized in the Background section of this report.

##### **5.4 Fire Department**

We would not be able to approve anything until we knew how all materials were processed. I would suggest that WorkSafe is contacted to comment on the processes as they really have a huge stake in this application. This is a complicated application that we would need to know more details.

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 is in place, it is difficult to approve on behalf of the fire department.

##### **5.5 Ministry of Agriculture**

The BC Ministry of Agriculture has provided a referral letter for the application, attached.

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<sup>26</sup> City of Kelowna, 2017. Zoning Bylaw 8000 – Section 15 Industrial Zones  
<https://apps.kelowna.ca/CityPage/Docs/PDFs/Bylaws/Zoning%20Bylaw%20No.%208000/Section%2015%20-%20Industrial%20Zones.pdf>

## 5.6 Agricultural Advisory Committee

Moved by Keith Duhaime/ Seconded by Domenic Rampone

THAT the Agricultural Advisory Committee recommends that Council support Agricultural Land Reserve Application No. A16-0011 for the property located at 1040 Old Vernon Road, Kelowna, BC to request permission from the Agricultural Land Commission for a Non-Farm Use to operate a recycling facility for construction and demolition waste on the subject property.

**Defeated**

### ANEDOTAL COMMENTS:

The Agricultural Advisory Committee expressed concern that the application is not consistent with Policies and preservation of agricultural land and negatively impacts surrounding agriculture. The Committee also expressed concern that this places undo-strain on existing utilities not resourced for industrial use and opens industrial activity in a large ALR area and places negative impact on maintenance of ALR land.

The Agricultural Advisory Committee commented that if the city should move forward with this application a Temporary Use with no extension from 3 years to 6 years unless there is progress on the subject property is recommended; ensure concrete can be kept to a minimum; and request ALC receive sufficient bonding to clean the mess if the owner walks away.

## 6.0 Application Chronology

Date of Application Received:	September 9, 2016
Date of Site Visit:	May 19, 2017
Date of Circulation and Review:	June 16, 2017
Agricultural Advisory Committee:	August 10, 2017
Date Public Consultation Completed:	None required for Non-Farm Use Applications

## 7.0 Alternate Resolution

THAT Agricultural Land Reserve Appeal No. A17-0011 for Lot 2, Section 1, TWP 23, ODYD Plan KAP546, located at 1040 Old Vernon Rd, Kelowna for a non-farm use of agricultural land in the Agricultural Land Reserve pursuant to Section 20(3) of the Agricultural Land Commission Act, be supported by Council under the following conditions:

- THAT the recycling use is confined to those uses and terms of the ALC Resolution #497/2000, which states that permitted recycling activities include only clean wood waste recycling, including pallet recycling;
- THAT the recycling use specifically prohibits concrete and general demolition waste, including but not limited to drywall, wires, and metals;
- THAT the use is approved through a Temporary Use Permit only, with those time limitations as outlined through the Local Government Act;

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

**Report prepared by:**

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Melanie Steppuhn

**Reviewed by:**

Todd Cashin, Subdivision, Suburban and Rural Planning Manager

**Reviewed by  
Approved for Inclusion:**

Ryan Smith, Community Planning Department Manager

**Approved for Inclusion:**

Doug Gilchrist, Divisional Director, Community Planning & Real Estate

**Attachments:**

Site Photos

Applicant ALC Act Application

Ministry of Agriculture Referral Letter – A. Skinner

Agrology Report – Valhalla Environmental Consulting Inc. – 982 Old Vernon Road (2013)