

# Agricultural Advisory Committee

## AGENDA



Thursday, December 10, 2015

6:00 pm

Council Chamber

City Hall, 1435 Water Street

Pages

### 1. Call to Order

THE CHAIR WILL CALL THE HEARING TO ORDER:

(a) The purpose of this Meeting is to consider certain Development Applications as noted on this meeting Agenda.

(b) The Reports to Committee concerning the subject development applications are available on the City's website at [www.kelowna.ca](http://www.kelowna.ca).

(c) All representations to the Agricultural Advisory Committee form part of the public record.

(d) As an Advisory Committee of Council, the Agricultural Advisory Committee will make a recommendation of support or non-support for each application as part of the public process. City Council will consider the application at a future date and, depending on the nature of the file, will make a decision or a recommendation to the Agricultural Land Commission.

### 2. Applications for Consideration

#### 2.1 2115 Rutland Road, A15-0013 - Kent-Macpherson (Bikar Johal/City of Kelowna) 3 - 32

The applicant is requesting permission from the Agricultural Land Commission (ALC) to exclude portions of the following properties from the Agricultural Land Reserve: - Lot 1 Section 35 TWP26 ODYD Plan 4375 - Lot 11 Section 35 TWP 26 ODYD Plan 4375 - Lot 12 Section 35 TWP ODYD Plan 4375

#### 2.2 395 Hereron Road, A15-0007 - Brenda Dureault 33 - 60

The applicant is requesting permission from the Agricultural Land Commission (ALC) to permit a non-farm use for recreational vehicle useage on Lot 14, District Lot 123, ODYD, Plan KAP680009, at 395 Hereron Road.

### 3. Minutes 61 - 71

Approve Minutes of the Meeting of Novmeber 12, 2015.

**4. Referrals**

None

**5. Old Business**

Ministry of Agriculture - "Regulating Agri-tourism and Farm Retail Sales in the Agricultural Land Reserve.

**6. New Business**

Update - Okanagan Agricultural Adaptation Strategies Workshop

**7. Next Meeting**

January 14, 2016

**8. Termination of Meeting**

# COMMITTEE REPORT



**Date:** December 10, 2015

**RIM No.** 1210-21

**To:** Agricultural Advisory Committee (AAC)

**From:** Community Planning Department (MS)

**Application:** A15-0013      **Owner:** Bikar Johal  
City of Kelowna

**Address:** 2115 Rutland Road      **Applicant:** Kent-Macpherson

**Subject:** Application to the ALC to exclude 1.9 ha three properties from the ALR, which will be isolated from other ALR lands by the Rutland Road extension.

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## 1.0 Purpose

The applicant is requesting permission from the Agricultural Land Commission (ALC) to exclude portions of the following properties from the Agricultural Land Reserve:

- Lot 1 Section 35 TWP26 ODYD Plan 4375
- Lot 11 Section 35 TWP 26 ODYD Plan 4375
- Lot 12 Section 35 TWP ODYD Plan 4375

## 2.0 Proposal

The applicant is requesting approval to the Agricultural Land Commission (ALC) to exclude portions of three properties from the Agricultural Land Reserve (ALR), which will be isolated from other ALR properties by the Rutland Road Extension, in accordance with Schedule 'A'.

### 2.1 Background

Since the 1990s, the transportation plan for Reids Corner has included the realignment of Rutland Road to connect with Acland Road to the northeast. This alignment bisects three properties in the ALR. Through an application for exclusion for Lot 12, Plan 4375 in 1996, the ALC provided support in principle of the plan, and of the exclusion for the properties west of the realignment, once the design and road location had been finalized. The Rutland Road Alignment was determined and confirmed through the ALC Resolution #295/2014, whereby the Commission approved the exclusion of 2.6 ha of land (ALC File #53711) for the purpose of Highway 97 expansion and the Realignment of Rutland Road.

### 2.2 Site Context

The subject properties are located in the Rutland Sector of the City and are within the Agricultural Land Reserve. The Future Land Use of the properties is Service Commercial. The portions of the properties in question are zoned A1 - Agriculture 1 (Maps 1 - 7, below) and are within the Permanent Growth Boundary. The properties are level with a slight grade of

approximately 1% from a high point on the northeast corner of 219 Old Vernon road to a low at the west property line of 2115 Rutland Road.

### Parcel Summary - 2115 Rutland Road:

Parcel Size: 0.91 ha (2.26 acres)

### Parcel Summary - 175 Old Vernon Road:

Parcel Size: 1.21 ha (3 acres)

### Parcel Summary - 219 Old Vernon Road Road:

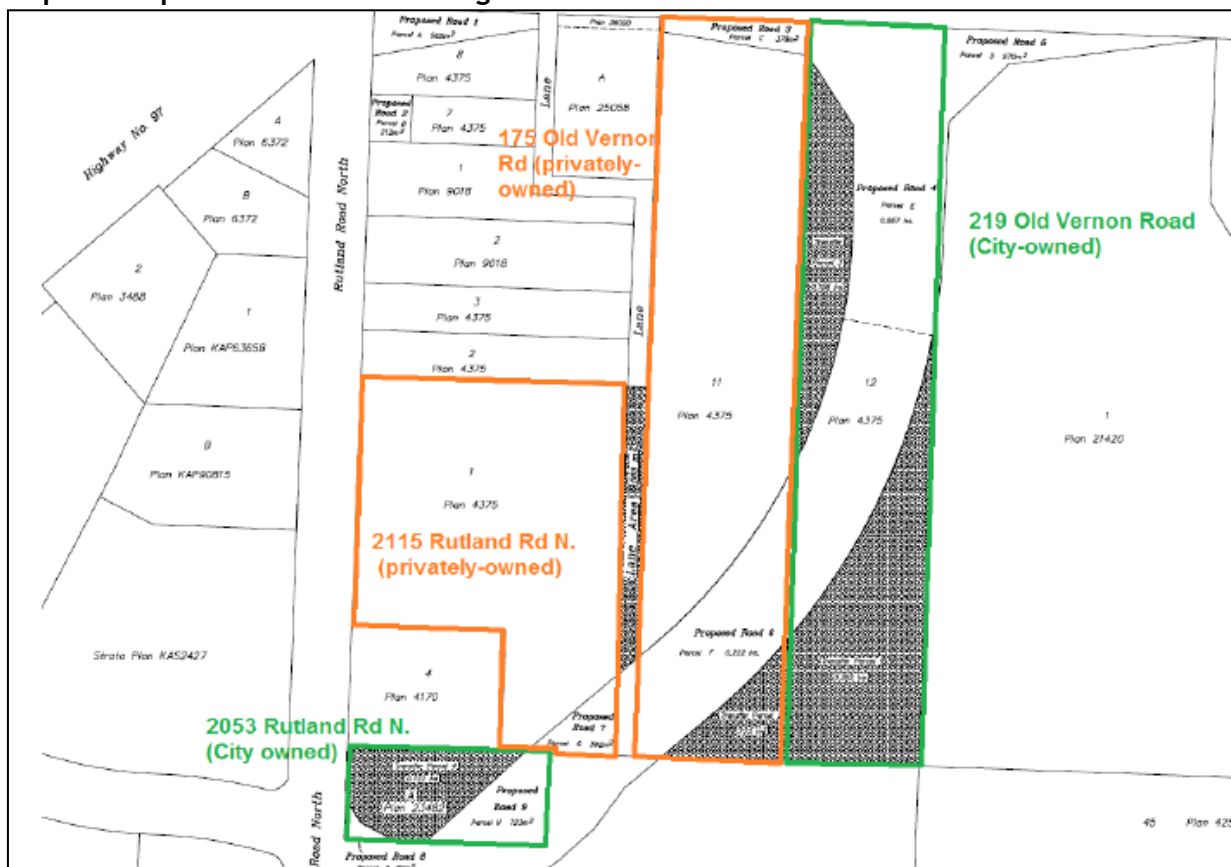
Parcel Size: 0.89 ha (2.19 acres)

Elevation Range: 409 to 406 metres above sea level (masl) (approx.)

### 2.3 Project Description

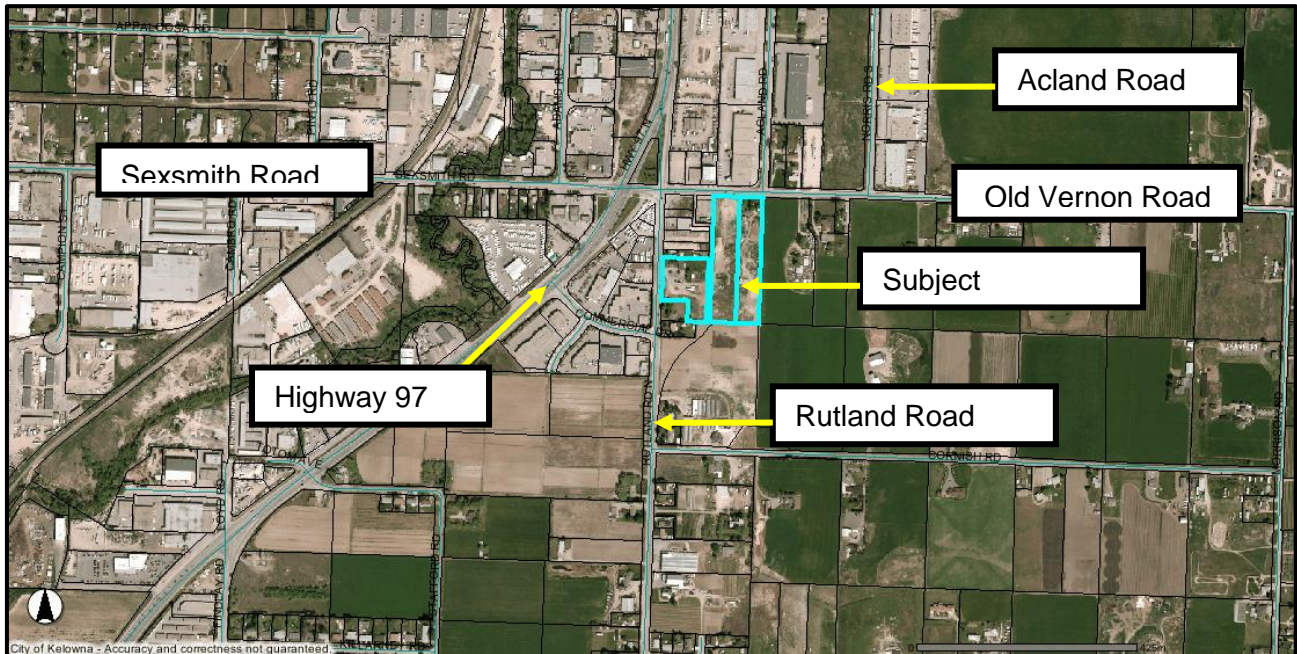
The Rutland Road Extension is designed to eliminate a dangerous corner at Old Vernon Road and Sexsmith. The new Rutland Road will make a defensible boundary for the ALR properties to the east. Both Council and staff supported the 1995 application for exclusion, and have endorsed the future land use of the properties as commercial properties in previous and current Official Community Plans (including OCPs from 1985 to 2004, 1994 to 2013, and 2000 to 2020). In addition, the lands proposed for exclusion lie within the City's Permanent Growth Boundary. The proposed alignment is shown in Map 1, below.

## Map 1 - Proposed Rutland Road Alignment

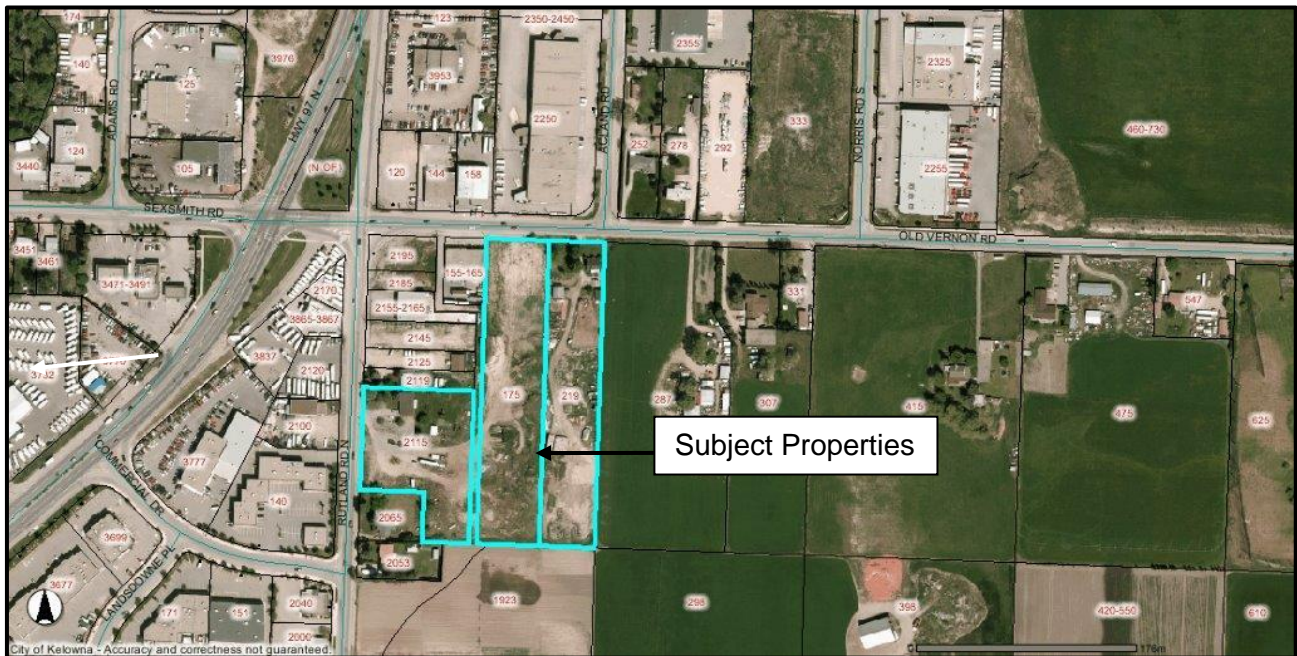




Map 2 - Neighbourhood



Map 3 - Subject Properties

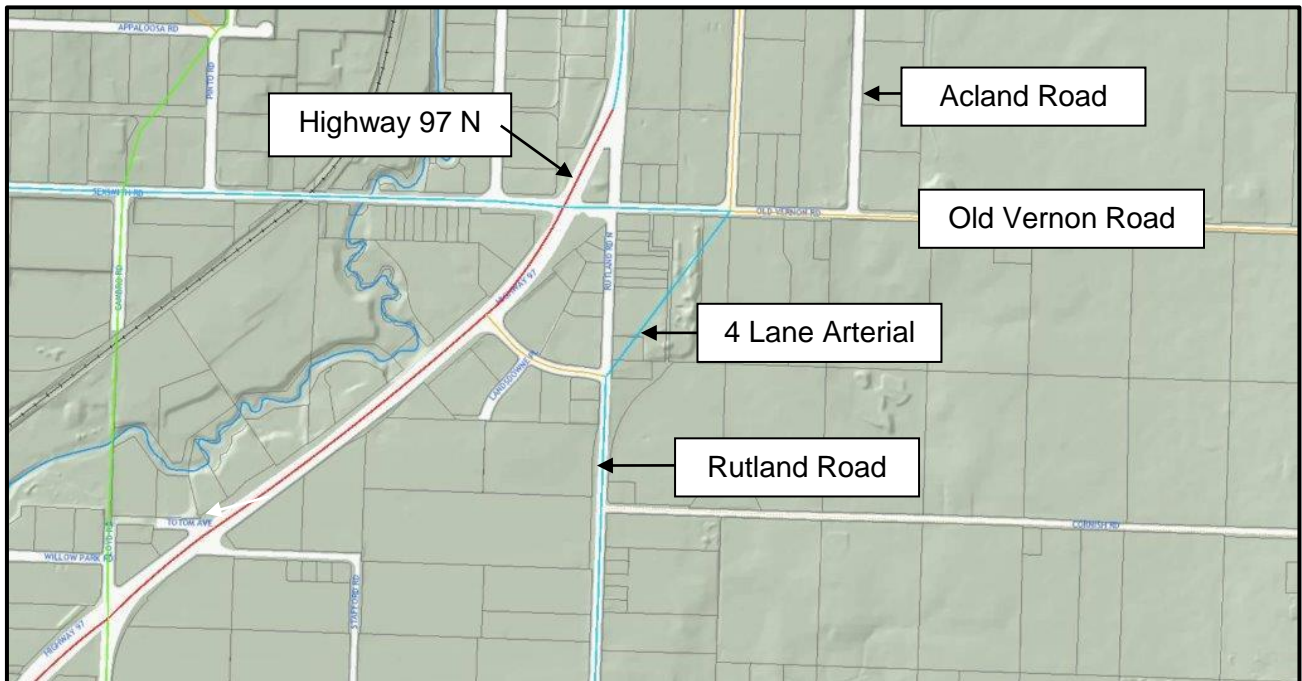




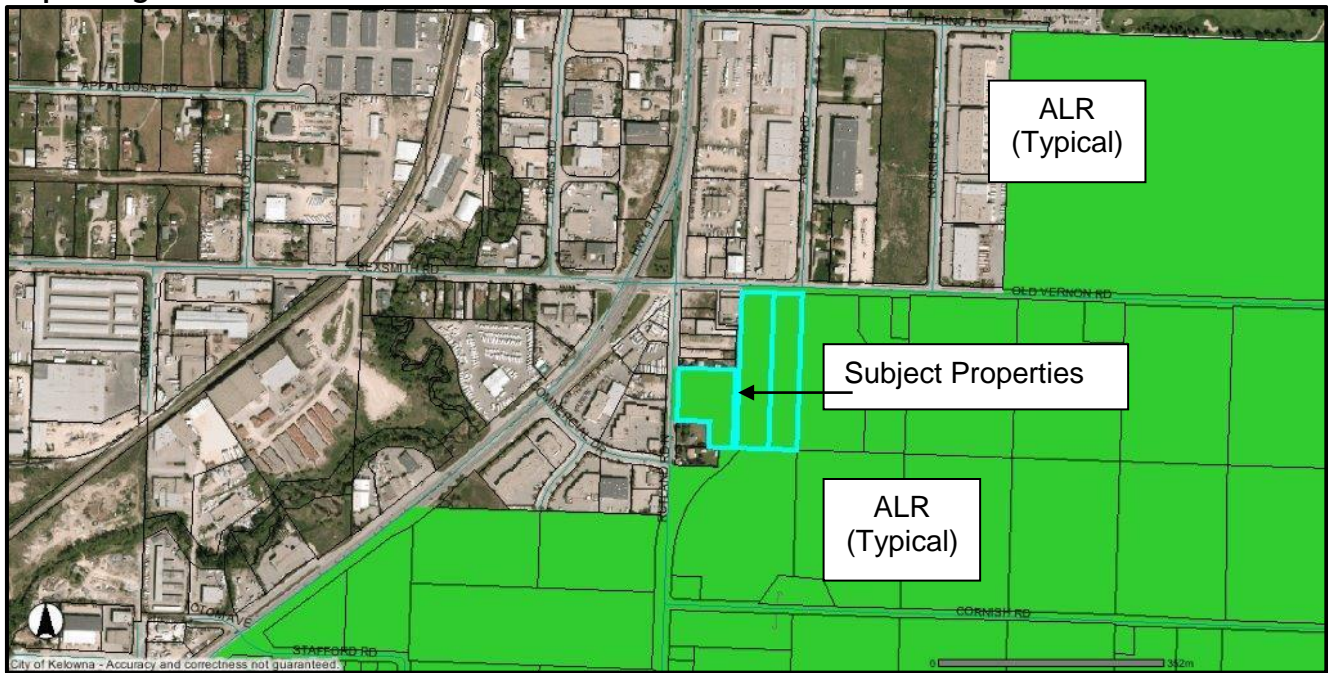
Map 4 - Permanent Growth Boundary



Map 5 - Transportation Plan - 20 Year



## Map 6 - Agricultural Land Reserve



### 2.4 Neighbourhood Context

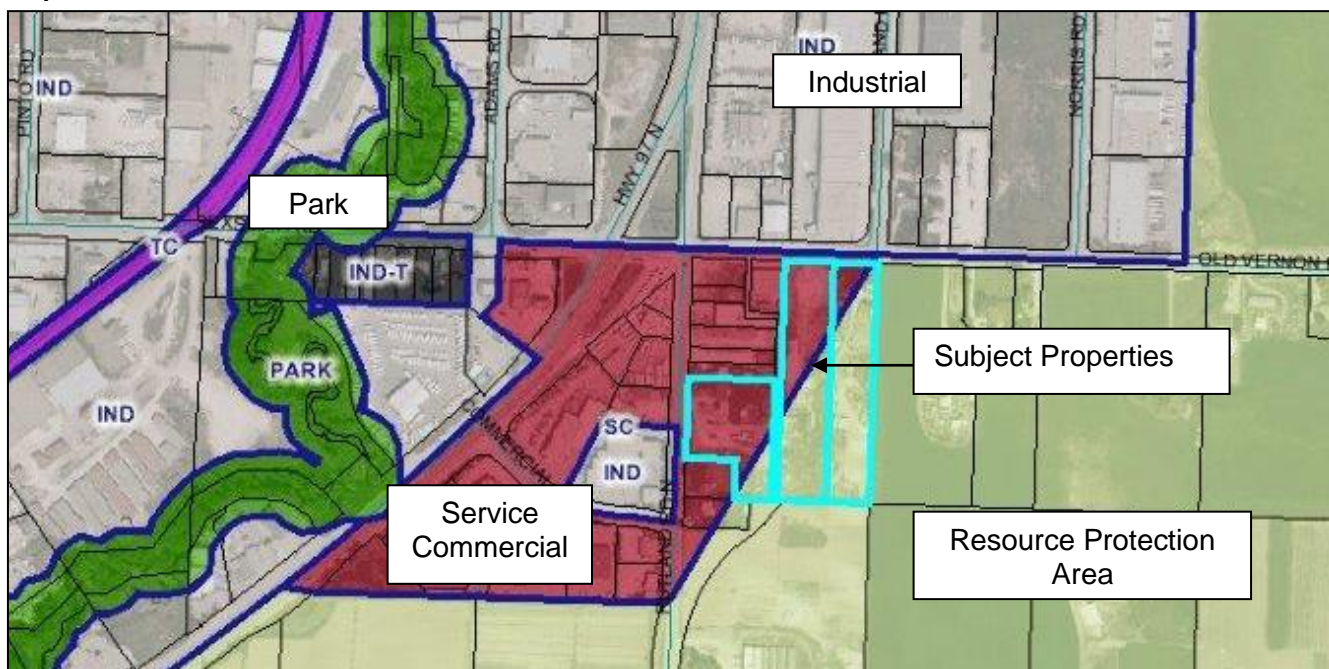
The subject property lies within the Service Commercial Area for land use according to the Official Community Plan. The properties to the north and south / southwest are also within the Service Commercial Future Land Use. The properties to the south / southeast are within the ALR and within the Resource Protection Area (REP) Future Land Use designation.

Zoning and land uses adjacent to the property are as follows:

**Table 1: Zoning and Land Use of Adjacent Property**

Direction	Zoning	ALR	Land Use
North	C2 - Commercial 2 I2 - Industrial 2	No	Vacant Land / Commercial Industrial
South	A1 - Agriculture 1	No/Yes	Vacant Land / Residential / Agriculture
East	A1 - Agriculture 1	Yes	Agriculture
West	I1/I2 - Industrial 1 and 2	No	Industrial



**Map 7 - Future Land Use**

## 2.5 Agricultural Land Capability

According to the BC Land Classification Inventory, the property is Class 3 land with limitations due to soil moisture deficits (A) and soil structure limitations (D). Soil moisture deficits are generally considered improvable with the addition of irrigation. Soil structure limitations are generally considered unimprovable. A soil structure limitation is given to soils that may be difficult to till, have insufficient aeration or distribute water slowly. With improvements, the property can be improved to Class 3 with soil structure (D) limitations (Map - Land Capability, attached).

## 2.6 Soil Capability

Soil Capability of the property (Map - Soil Capability, attached) indicates that the soils are Glenmore (GL). These soils occur on nearly level to moderate slopes. They are typically fine or moderately fine textured, stone free glacial lake deposits. Surface and subsurface textures range from silty clay loam to clay loam. Sandy or gravel lenses may be present at depths greater than 2 metres. Glenmore soils are fairly well suited for most agricultural crops, and are stone free, have good water holding capacity and are relatively fertile. Most land with Glenmore soils are farmed for hay or tree fruits<sup>1</sup>.

<sup>1</sup> MOE, 1983. Soils of the Okanagan and Similkameen Valleys – MOE Technical Report 18.  
[http://sis.agr.gc.ca/cansis/publications/surveys/bc/bc52/bc52\\_report.pdf](http://sis.agr.gc.ca/cansis/publications/surveys/bc/bc52/bc52_report.pdf)

### 3.0 Public Notification

The applicant has complied with the requirements of the ALC regarding exclusion notification. They have:

- posted signage on their property of the application for exclusion;
- advertised the application in the Kelowna Daily Courier (October 23<sup>rd</sup> and October 30<sup>th</sup>, 2015); and
- sent registered mail to all neighbours immediately adjacent their property.

### 4.0 Community Planning

The Official Community Plan indicates support for exclusions where they satisfy civic objectives. The Future Land Use of Service Commercial is supported on the lands that will be orphaned by the Rutland Road Extension. In addition, these lands are identified within Permanent Growth Boundary.

The AAC is also asked to consider and make recommendations which reflect the scenario as proposed. The AAC should consider the impacts of a non-agricultural use and suggest mitigation opportunities of adjacent agricultural lands should the ALC choose to support the proposed exclusion.

**Report prepared by:**

\_\_\_\_\_  
Melanie Steppuhn, Land Use Planner

**Reviewed by:**

☐

Todd Cashin, Community Planning Department Manager

**Approved for Inclusion:**

☐

Doug Gilchrist, Divisional Director, Community Planning & Real Estate

**Attachments:**

Schedule 'A'

Subject Property Map

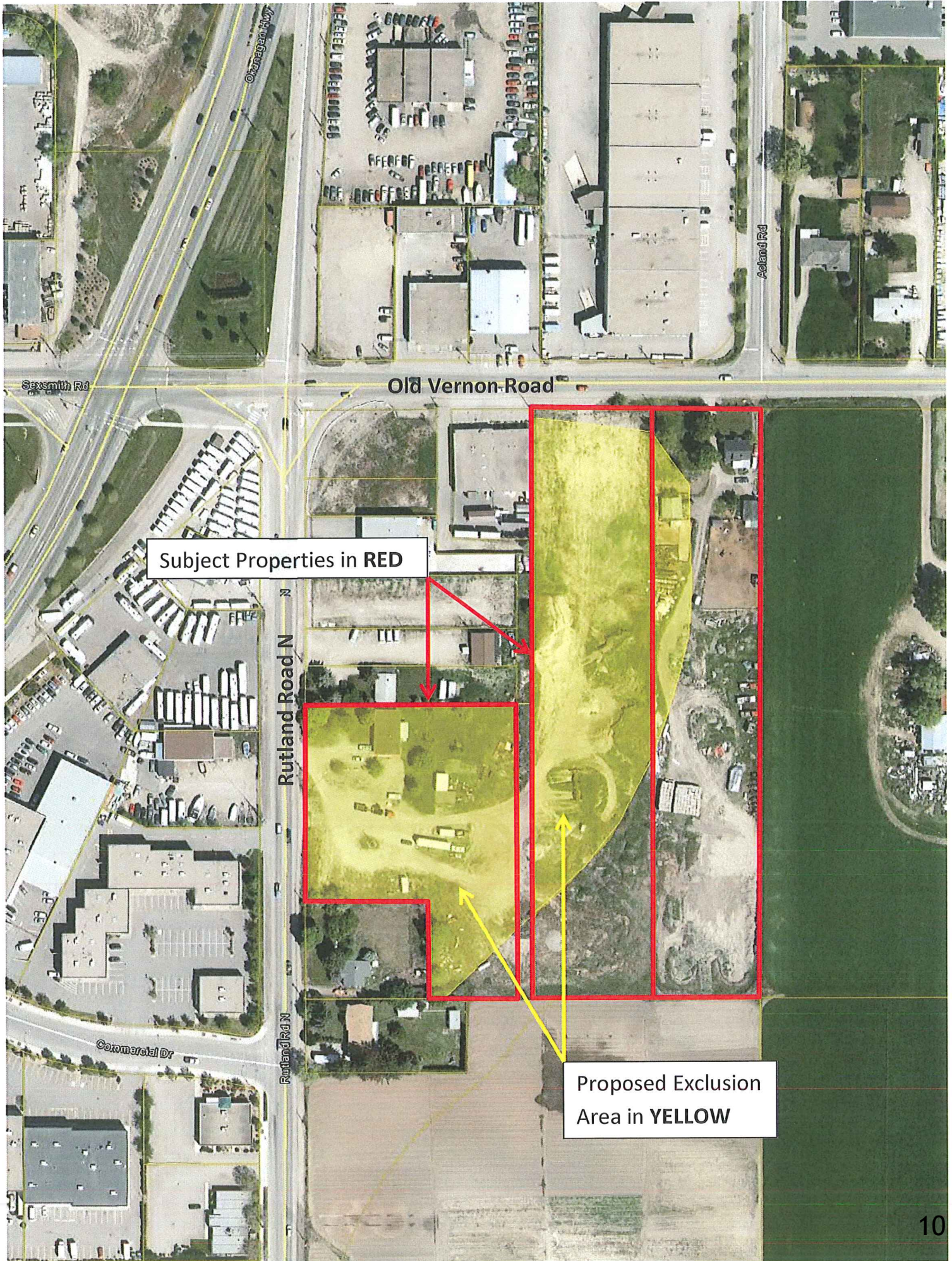
Agricultural Capability Map

Soil Map

Applicant ALC Act Application for Exclusion - Supplementary Information

ALC Resolution 295/2014









Land Capability = Brown/ Soil Class = Green





Land Capability = Brown/ Soil Class = Green



March 14, 1996

Reply to the attention of Ross Blackwell

Thomas & Sandra Greenough  
1955 Brentwood Road, RR #5, S13a, C24  
Kelowna, B.C. V1X 4K4

Dear Sir/Madam:

**Re: Application #G-30154**

Further to the hearing on lands described as **Lot 12, Section 35, Township 26, ODYD (Osoyoos Div of Yale), Plan 4375** the Agricultural Land Commission has now had an opportunity to thoroughly review all of the information contained in your application.

You have asked for the exclusion of 1.1 hectares from the Agricultural Land Reserve (ALR) of the Regional District of Central Okanagan.

In considering the application the Commission noted such particulars as the agricultural capability ratings, property size, present use, surrounding land uses, comments from the local government, and other information submitted in support of your application.

In view of the proposed Rutland Road realignment which will likely divide the subject property into two portions, the Commission felt that the most prudent land use strategy would be to use the said road as the Agricultural Land Reserve boundary on the subject property.

For these reasons, the Commission, under Section 12(2) of the Agricultural Land Commission Act, by Resolution #203/96 refused your application as submitted.

The intent of the Act is to preserve and protect agricultural lands and farm communities in the long term and the Commission felt that your application was not in keeping with that mandate.

The Commission has yet to reach agreement with the City of Kelowna, and the Ministry of Transportation and Highways as to the precise configuration of the proposed Rutland Road realignment. Notwithstanding, when consensus has been achieved, the Commission would be willing to exclude the portion of your property which would lie to the west of the finalized road realignment. This decision would be subject to the consolidation of the eastern portion of the subject property (to remain in the A.L.R.) with an adjacent property.

If you choose to pursue this option, please notify the Commission by way of written correspondence. Once in receipt of correspondence confirming your interest, and a copy of the registered plan of the Rutland Road realignment, the Commission will finalize its decision.

...2

March 14, 1996

Page 2

The land referred to in the application continues to be subject to the provisions of the Agricultural Land Commission Act and regulations.

Yours truly,

AGRICULTURAL LAND COMMISSION

per:



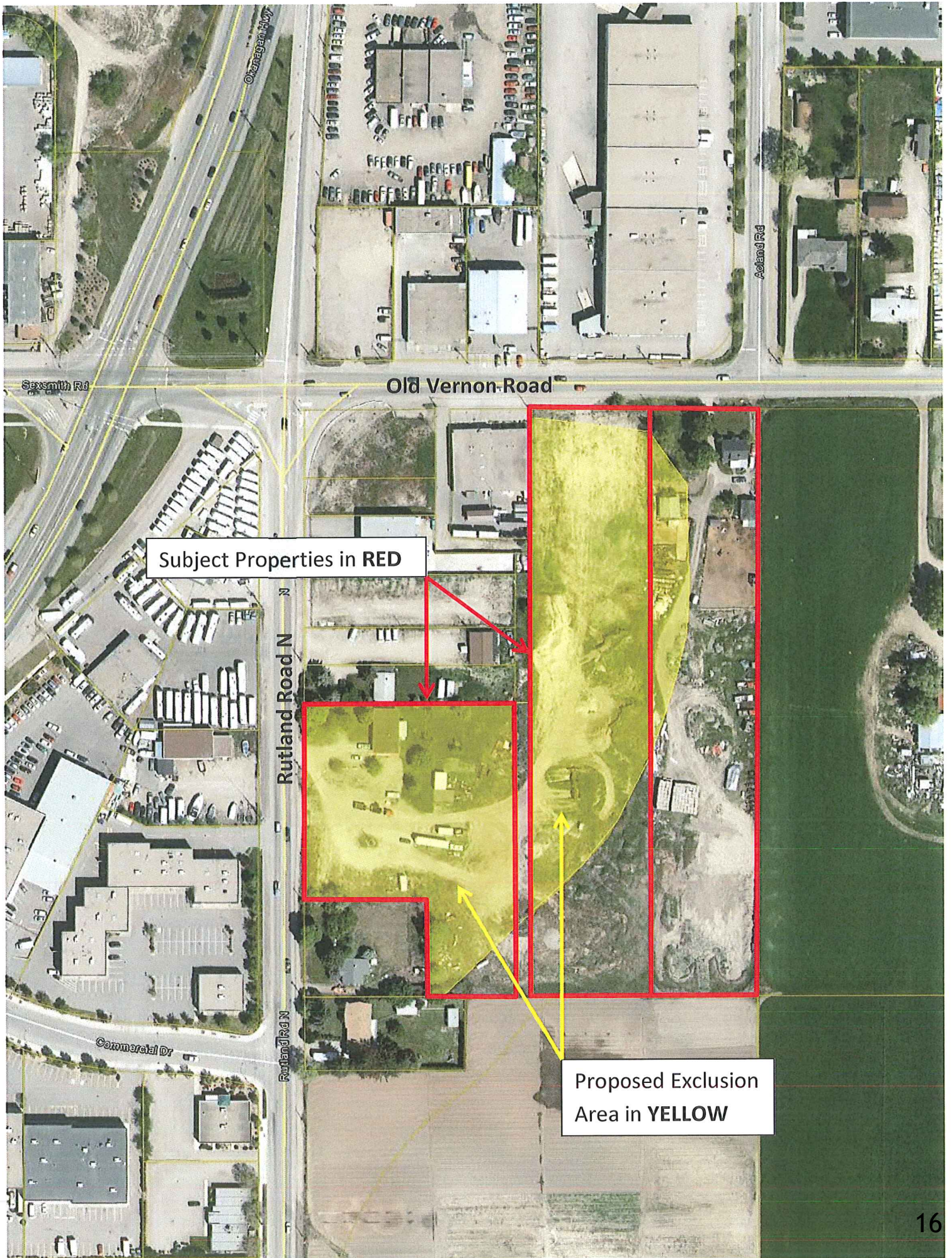
K. B. Miller, General Manager

cc: City of Kelowna (#A95-111)  
Frank Buckland, #210 - 2365 Gordon Drive, Kelowna VIW 3C2

RB/lv

f:30154\dec01.doc







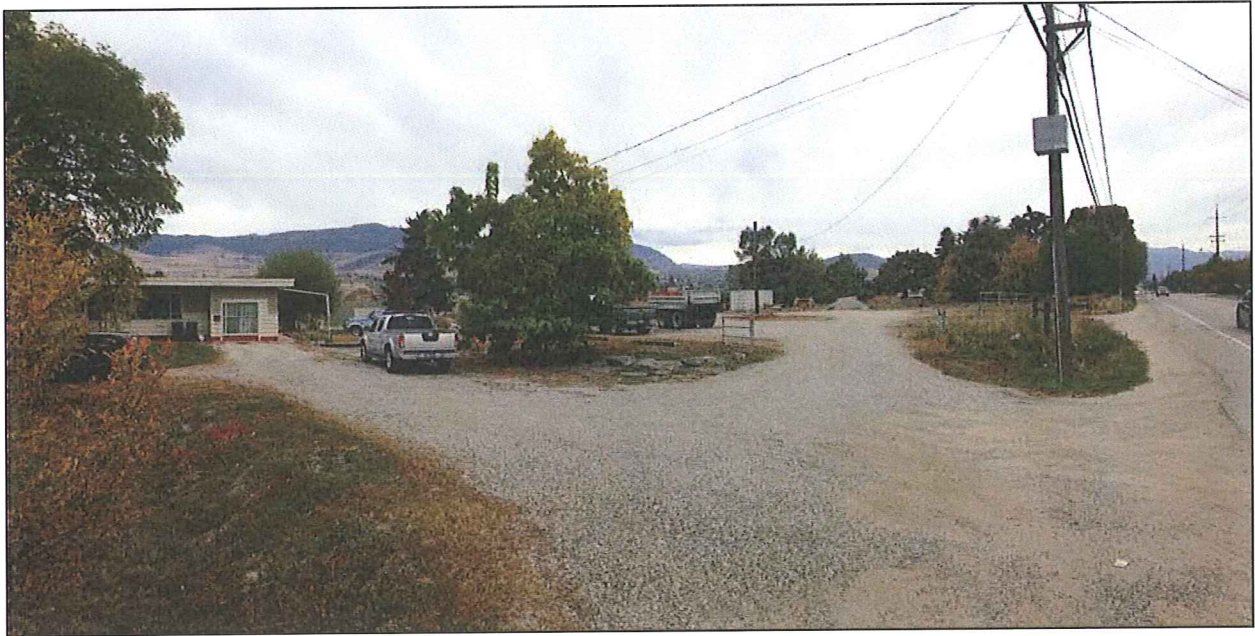


**View looking south from Old Vernon Road**



**View looking south on property**





**View from northwest corner (along existing Rutland Road)**



**View looking east from southwest corner**





View from southeast corner

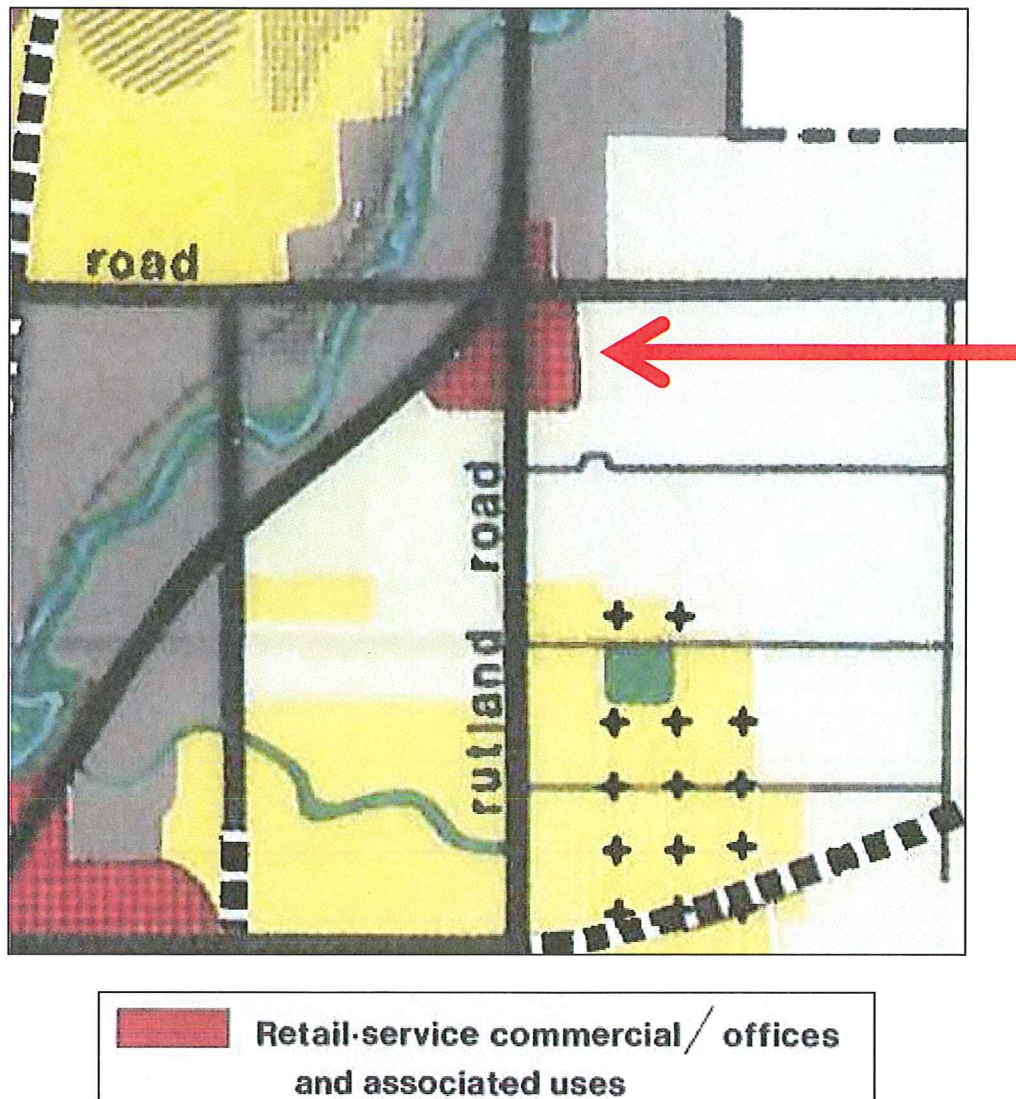


View from southwest corner

City of Kelowna

Generalized Future Land Use

1985 – 2004





City of Kelowna

Generalized Future Land Use

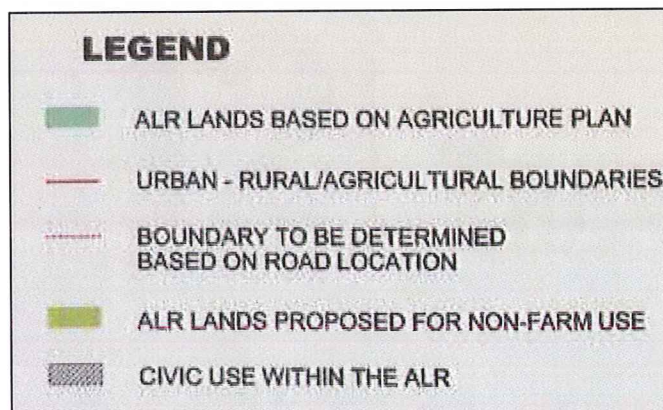
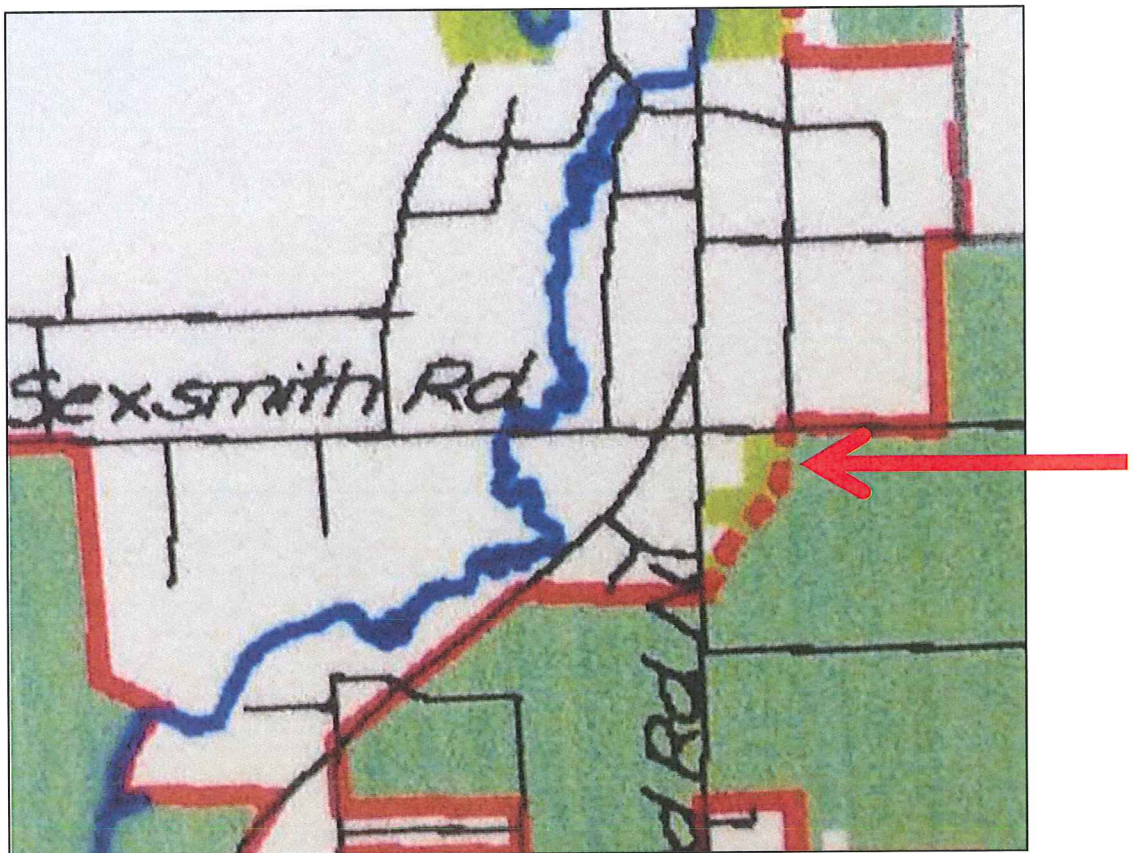
1994 – 2013



## City of Kelowna

### Urban – Rural Agricultural Boundaries

2000 – 2020

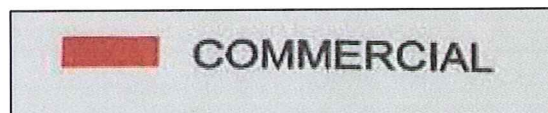
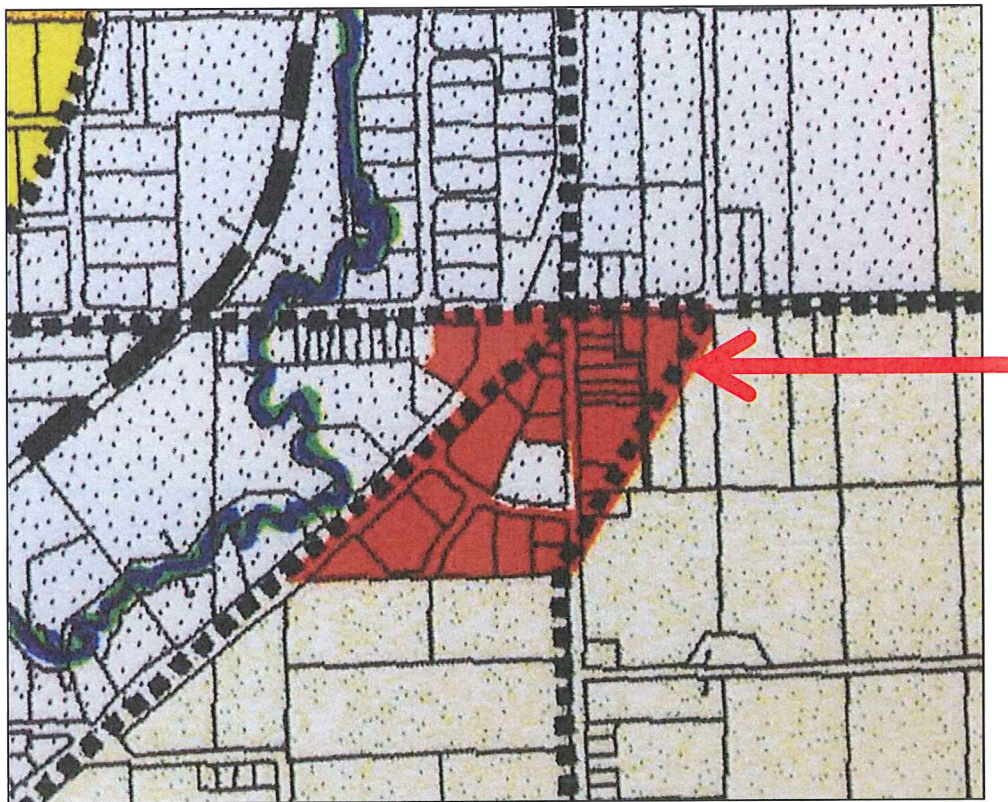




City of Kelowna

Generalized Future Land Use

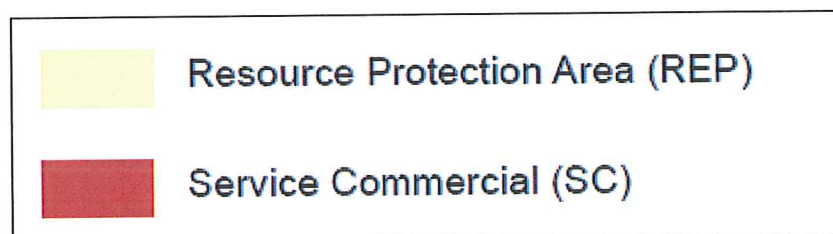
2000 – 2020



City of Kelowna

Generalized Future Land Use

2010 – 2030

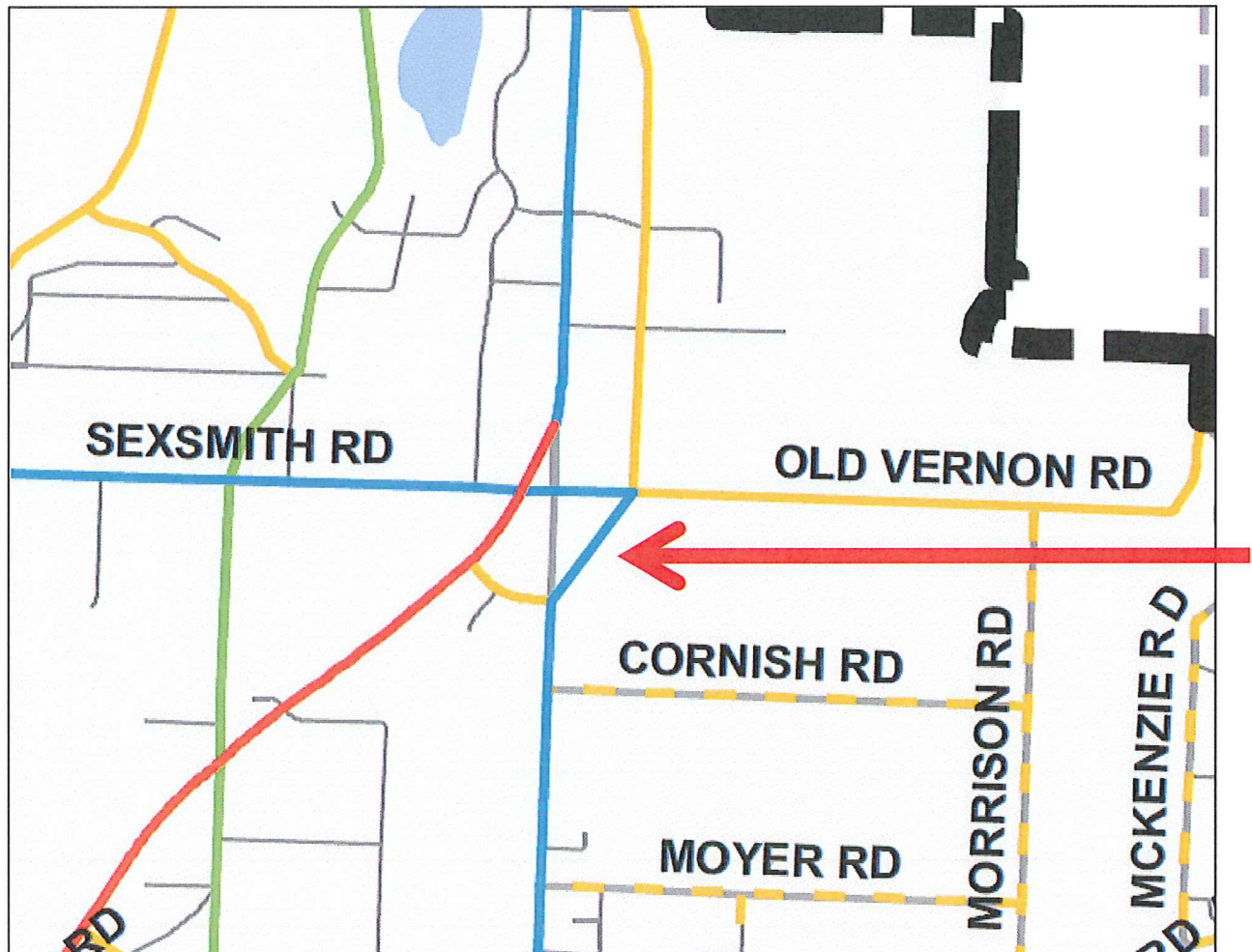




City of Kelowna

20 Year Major Road Network & Road Classification Plan

2010 – 2030



— 4 Lane Arterial



**Agricultural Land Commission**  
133-4940 Canada Way  
Burnaby, British Columbia V5G 4K6  
Tel: 604 660-7000  
Fax: 604 660-7033  
www.alc.gov.bc.ca

August 19, 2014

ALC File: #53711

Scotty McKenzie  
Regional Project Manager  
Ministry of Transportation and Infrastructure  
342-447 Columbia Street  
Kamloops, BC  
V2C 2T3

Dear Sir:

**Re: Application for a Transportation Right of way in the Agricultural Land Reserve**

Please find attached the Minutes of Resolution #295/2014 as it relates to the above noted application. As agent, it is your responsibility to notify the affected property owners accordingly. The Commission has also attached a sketch plan depicting the decision.

Further correspondence with respect to this application is to be directed to Ron Wallace.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Colin J. Fry, Chief Tribunal Officer

Enclosure(s): Minutes of Resolution #295/2014  
Sketch plan; Table 1 (listing the affected properties)

cc: City of Kelowna

53711d1



## MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on August 6, 2014 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to Application #53711.

### COMMISSION MEMBERS PRESENT:

Richard Bullock	Chair
Gordon Gillette	Vice-Chair
Bert Miles	Commissioner
Jim Johnson	Commissioner
Jerry Thibeault	Commissioner
Lucille Dempsey	Commissioner

### COMMISSION STAFF PRESENT:

Martin Collins	Planner
Colin J. Fry	Chief Tribunal Officer

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### PROPOSAL

(Submitted pursuant to s. 6 of the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation*)

To use 2.6 ha from fourteen (14) parcels for road right of way to accomplish the expansion of Highway #97 to six lanes through the City of Kelowna and the realignment of Rutland Road at Old Vernon Road. An *Agricultural Impact Assessment (AIA)* dated May 29<sup>th</sup>, 2014 by Talisman Land Resource Consultants accompanied the application. The AIA provides details about the agricultural impacts of the project on the ALR, and proposed mitigation measures relating to topsoil conservation, fencing, infrastructure disturbance and access.

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### PROPERTY INFORMATION:

**Owners:** See Attached Table 1

**Legal:** PID: 002-021-544; 003-822-991; 011-287-357; 027-015-181; 012-573-833  
PID: 012-573-787; 002-787-253; 002-787-571; 002-787-695; 010-560-416;  
PID: 010-560-424; 007-507-496; 007-507-518; 010-560-386.

**Location:** North Kelowna, adjacent to Highway #97 (north of Highway #33) and the Rutland Road - Old Vernon Road intersection.

**Size:** 2.6 ha

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## LEGISLATIVE CONTEXT FOR COMMISSION CONSIDERATION

Section 6 (Purposes of the commission) of the *Agricultural Land Commission Act* states:

- 6 The following are the purposes of the commission:
- (a) to preserve agricultural land;
  - (b) to encourage farming on agricultural land in collaboration with other communities of interest; and
  - (c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.
- 

## COMMISSION CONSIDERATION

The Commission reviewed a previous application involving the several of the subject properties adjacent to Sexsmith Road/Old Vernon Road and Rutland Road:

Application #36165 (City of Kelowna, 2005)	The Commission, by Resolution # 511/2005, allowed the expansion and realignment of Rutland Road between Fitzpatrick Road and Old Vernon Road. A total of 1.7 ha of ALR was affected. Portions of right of way required by the current application for the realignment of Rutland Road follow the right of way approved by Resolution #511/2005.
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After considering the information the Commission concluded as follows:

1. The Commission considered the agricultural capability of the land proposed affected by the highway widening and realignment.

**Conclusion:**

The Commission confirmed that the lands affected by the road widening has good capability for agriculture, comprising primarily BC Land Inventory (BCLI) capability ratings of improvable to BCLI class 2 and 3 (unimproved class 4) with the predominant limitation being seasonal aridity. The Commission supported the mitigation strategy of ensuring that topsoil of the areas affected by the project be retained on each property for agricultural uses.

2. The Commission considered the impacts of the road widening on agricultural activity.

**Conclusion:**

The Commission confirmed that the impacts of road widening on each property were relatively minimal, with very small areas under cultivation being alienated ranging from 0.02 ha to 0.3 ha from each parcel. Only a small portion of the project required realignment of an existing road, which was previously approved by ALC resolution.

3. The Commission reviewed the agricultural mitigation strategies outlined by the May 29<sup>th</sup>, 2014 Talisman Resource Consultants' report



**Conclusion:**

The Commission was satisfied that the mitigation strategies outlined in the above referenced report limited the impacts of the project on farm parcels, and reflected the project's sensitivity to agricultural issues such as the long term impacts on drainage, and access, the necessity of fencing and topsoil preservation, and consolidation of severed parcels (where possible).

**IT WAS**

**MOVED BY: Commissioner Miles**

**SECONDED BY: Commissioner Johnson**

THAT the request to use 2.6 ha of ALR affecting fourteen (14) parcels for road right of way for the widening of Highway # 97 and the realignment of Rutland Road be approved;

AND THAT the approval is subject to the following condition(s):

1. The road widening and realignment is consistent with the plans submitted with the application.
2. Mitigation of the impacts of the project on agriculture be fulfilled as per the May 29<sup>th</sup>, 2014 Talisman Land Resource Consultants *Agricultural Impact Assessment*.
3. The submission of a final report by a professional agrologist confirming that the proposed mitigation actions outlined in the above referenced "*Agricultural Impact Assessment*" are completed as proposed. The final report must be provided to the ALC within 60 days of the completion of the project.

AND FINALLY THAT this decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

**CARRIED**

**Resolution #295/2014**

ALC APPLICATION # 53711 RESOLUTION # 295/2014

Project Property #	Owner	PID	Project Taking Ha	Remainder Ha	Total Parcel Ha	Type of Operation	Project Taking Under Cultivation Ha	Notes / Comments
46	0858768 B.C. Ltd. Inc. No. 0858768	002-021-544	0.28	6.32	6.60	Irrigated forage	0.24	residence and outbuildings have been removed, concrete pad remains
47	Reynold Ept	003-822-991	0.07	0.06	0.13	vacant	0.00	reinstale right-in, right-out access at current location no buildings or improvements pursue consolidation of remainder with adjacent lot 3
54	Stewart Brothers Nurseries Ltd., Inc. No. 9771	011-287-357	0.21	4.89	5.10	tree nursery	0.21	no buildings or improvements
44A	Gladys Crossley and Glen Auch	027-015-181	0.20	6.10	6.30	Irrigated forage	0.09	access is from service road on north side no nursery crops within proposed ROW proposed taking is for a detention pond (see Tab
West Side Sub-totals			0.77	17.37	18.14		0.53	
51	City of Kelowna	012-573-833	0.19	2.10	2.28	vacant	0.00	historically cultivated, residence & farm buildings removed
52	Woo Wing Kein	012-573-787	0.11	1.40	1.51	berries & vegetables	0.03	reinstale access at current driveway location residence & yard located along north parcel boundary access is off Stafford Rd at junction with Hwy 97 consider right in/right out access from Hwy 97 to Stafford Rd near current driveway location irrigation system may require modification
53	Falk Transportation Ltd., Inc. No. 398392	002-787-253	0.19	0.72	0.91	berries & vegetables	0.04	residence & yard located along south parcel boundary irrigation system may require modification
65	Falk Transportation Ltd., Inc. No. 398392	002-787-571	0.10	1.54	1.65	berries & vegetables	0.03	access is off Stafford Rd at junction with Hwy 97 consider right in/right out access from Hwy 97 to Stafford Rd near current driveway location irrigation system may require modification no residence or outbuilding located in this parcel
66	Falk Transportation Ltd., Inc. No. 398392	002-787-695	0.02	2.21	2.23	berries & vegetables	0.00	access is off Stafford Rd and/or Rutland Rd no permanent buildings in this parcel
83	Bikar Singh Johal	010-580-416	0.10 0.21	0.82 (West) 0.07 (East)	1.21	soil storage & mixing	0.00	access is off Old Vernon Rd consider consolidation of SE severed portion with adjacent severed parcel to east and consolidation of both severances to cultivated land parcel to east various types of fill mounded throughout property reclaim severed SE corner for crop use & pursue consolidation with adjacent lot to east
84	City of Kelowna	010-580-424	0.57	0.18 (West) 0.33 (East)	1.08	vacant	0.00	pursue consolidation of westerly severance with adjacent lot to west residence, yard & outbuildings cover - NE 1/3 of parcel access is off Old Vernon Rd reinstale access at current driveway location, if possible or re-instale along E property boundary irrigation system may require modification pursue reclamation as forage land & consolidation of severance at SW corner with this parcel residence, yard & outbuildings cover - N 1/3 of parcel access is off Old Vernon Rd reinstale access at current driveway location irrigation system may require modification replace brick fence on N property boundary office & equipment sheds associated with soil mixing operation located in this parcel access is off Rutland Rd
84A	John Lowen, Hilda Helen Lowen	007-507-496	0.27	2.15	2.43	Irrigated Forage	0.24	
109	Elizabeth Penzin	007-507-518	0.04	1.42	1.47	Irrigated Forage	0.00	
114	Bikar Singh Johal	010-580-366	0.04	0.83	0.87	soil storage & mixing	0.00	

COPY

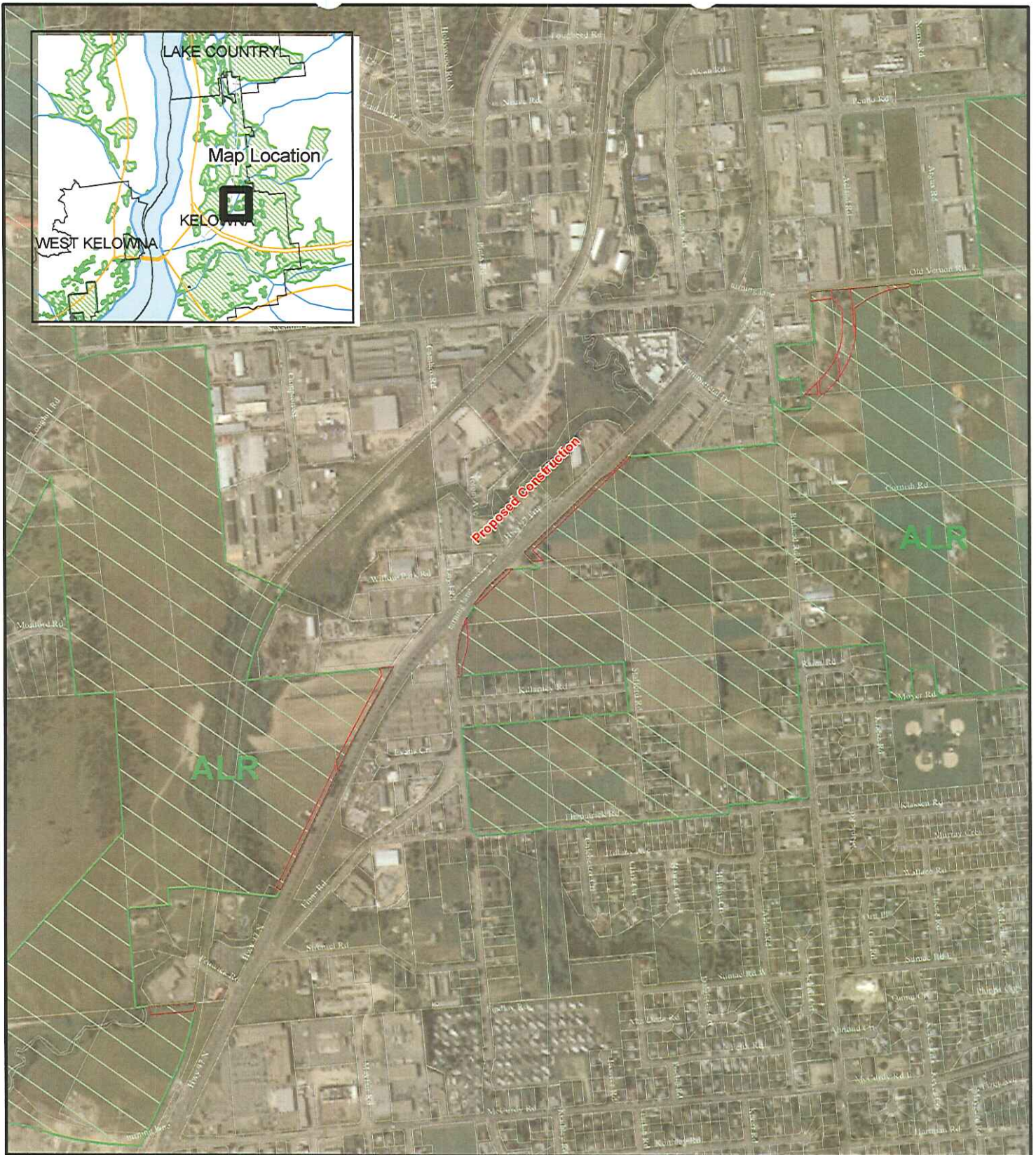


East Side Sub-totals			1.86	12.38	15.63		0.34	
Totals	0	2.62	29.75	33.76		0.88		

NOTE: **\*\* DRAFT \*\* - last updated June 16, 2014**

1. The above details and data are based on preliminary highway designs and are subject to revision through the detailed project design stage.

COPY

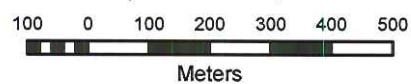


RESOLUTION # Z95/2014

### Orthophoto Map

2007 Natural Colour - Ortho

Map Scale: 1:12,500



ALC File #:	53711
Mapsheet #:	92E/14
Map Produced:	Jul 31, 2014
Regional District:	Central Okanagan



# COMMITTEE REPORT



**Date:** December 10<sup>th</sup>, 2015

**RIM No.** 1210-21

**To:** Agricultural Advisory Committee (AAC)

**From:** Community Planning Department (AC)

**Application:** A15-0007

**Owner:** Brenda Dureault

**Address:** 395 Hereron Rd

**Applicant:** Brenda Dureault

**Subject:** Application to the ALC for a non-farm use application

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## 1.0 Purpose

The applicant is requesting permission from the Agricultural Land Commission (ALC) to permit a non-farm use for recreational vehicle useage on Lot 14, District Lot 123, ODYD, Plan KAP680009, at 395 Hereron Road.

## 2.0 Proposal

The applicant is proposing ten (10) agri-tourist accommodation units in the form of a Recreational Vehicle (RV) park.

## 3.0 Background

A non-farm use application to the ALC is necessary to permit agri-tourist accommodations when a property does not have farm status or where the agri-tourism use has the potential to be the primary use. If the application for the non-farm use is successful with the ALC then a rezoning application is also necessary to the 'A1t' zone in order to permit the agri-tourist accommodations.

The title for the subject property (Dureault farm) was transferred by a family member (Mr. Rene Dureault) in 2008 to the current property owner. Before 2000, the agricultural parcel was quite large before being subdivided into commercial and industrial lots. The portion of the property in the ALR was subdivided from the parent parcel and is subject of the non-farm use application. The property lost its farm status in 2004. Duggan Brook (a tributary to Mill Creek) runs through this property and expands into Simpsons Pond. Between 2003 and 2006, a large portion of Simpsons Pond was illegally filled in and consequently the wetland re-established further east on the property. There are no records of any approval being granted and there was more than one stop-work order issued in relation to the work.



Figure 1: 2000 Aerial Photo

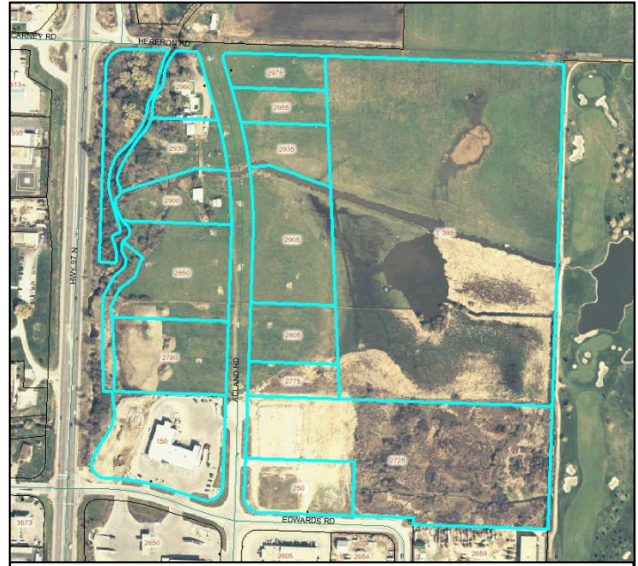


Figure 2: 2000 Aerial Photo with subdivision plan overlay



Figure 3: 2003 Aerial Photo



Figure 4: 2006 Aerial Photo

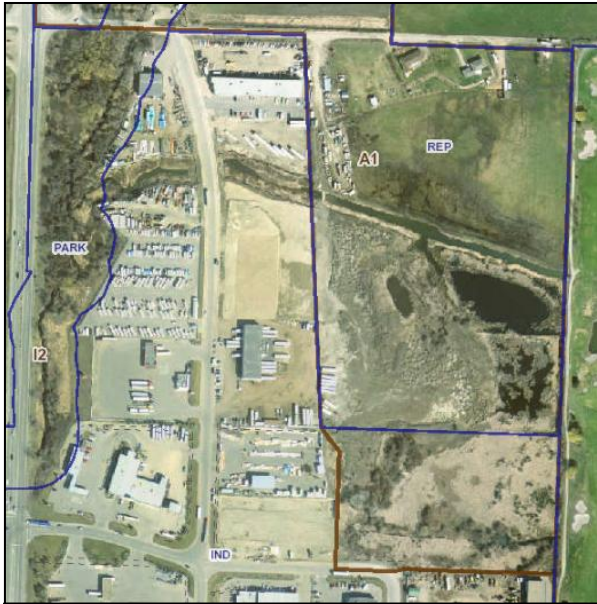


Figure 5: 2009 Aerial Photo



Figure 6: 2012 Aerial Photo

Following the wetland infill, Mr. Dureault proposed a non-farm use for an RV park on the portions of the land that were filled in. At the time, staff recommended against any proposal and suggested that the owner remove the illegally placed soil and recreate the wetland. An official application was never submitted.

The new owner (Ms. Brenda Dureault) has also applied to have a non-farm use and staff informed the applicant that a bona-fide farm must exist prior to any non-farm use consideration. Currently, the farming activities are chickens and hay. The big impediment to farming on this property is the increasingly high water table.

The Zoning Bylaw requires a property with agri-tourist accommodations to have farm status. The Zoning Bylaw further states that the agri-tourist income has to be accessory to the farm income.

In 1999 and 2000 a rezoning and ALR exclusion application was approved for the commercial and industrial portions of the parent parcel. However, resolution #640/99 to exclude 10.4 ha was approved subject to the applicant submitting a drainage plan to address the drainage problems and to ensure that the commercial / industrial development does not create further drainage problems on adjacent ALR lands. Further, the resolution stated buffering to the ALR lands was to occur.

Due to the high water table and drainage issues, the current owner decided to develop an agri-forestry operation. To date, over 1500 trees (nut, fruit, Christmas, and native) have been planted. Crops such as garlic, edamame beans, melons, broccoli, cucumber, herbs, tomatoes, strawberries, and flowers have been added for farm gate sales in addition to the existing egg sales. Public tours, workshops and children's summer camps are ongoing.





Image 1: July 25<sup>th</sup> 2015 Photo of Agroforestry



Image 2: July 25<sup>th</sup> 2015 Photo of Duggan Creek, adjacent hay field and two dwellings.

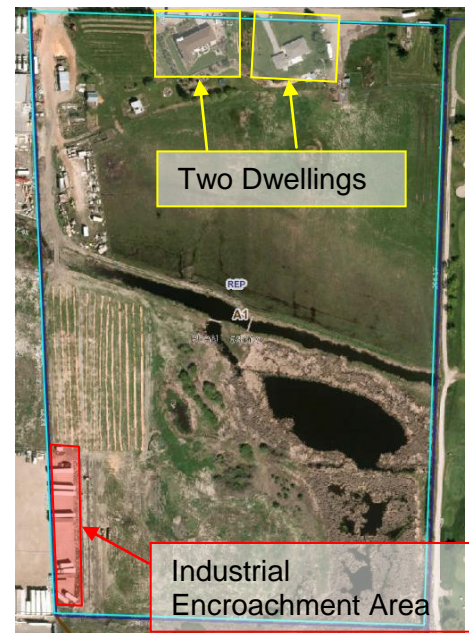
#### 4.0 Community Planning

Both the City's Agriculture Plan and the OCP recommend general non-support with respect to non-farm uses. At this time City Staff and Council seek a recommendation on the proposed non-farm use after taking into account all relevant considerations. Relevant information includes, but is not limited to the nature of the subject property (including adjacent and surrounding land uses), the historic use of the subject property, the agricultural viability of the subject property, the potential impact on adjacent and nearby properties and existing City policies.

The AAC is also asked to consider and make recommendations which reflect the scenario as proposed. The AAC should consider the impacts of a non-agricultural use and suggest mitigation opportunities should the ALC choose to support the proposed exclusion.

The projected agricultural income will be similar or greater than the projected agri-tourism income. However, the current farm income is much lower than the projected agri-tourism income. Agri-tourism uses are meant to be accessory to farming use and not the primary income generator. As per OCP policy, agri-tourism operations are only meant to aid a bona fide farm and should not be approved until the annual farming income can be proven to be greater than the projected agri-tourism income and the property receives farm status. This should ensure farming remains the primary use even if there is a time gap between plantings and income generation.

Further, there are two other outstanding enforcement issues. There is a second dwelling on the property and there is an industrial encroachment onto ALR land. During the industrial subdivision of the parent parcel, the City of Kelowna issued a building permit to relocate a second home on the subject property. Under current regulations second dwellings on ALR parcels can only be used for farm help. As Staff understand it, the second dwelling on 395 Hereron Rd is used for residential purposes and is not limited to farm help.





#### 4.1 Site Context

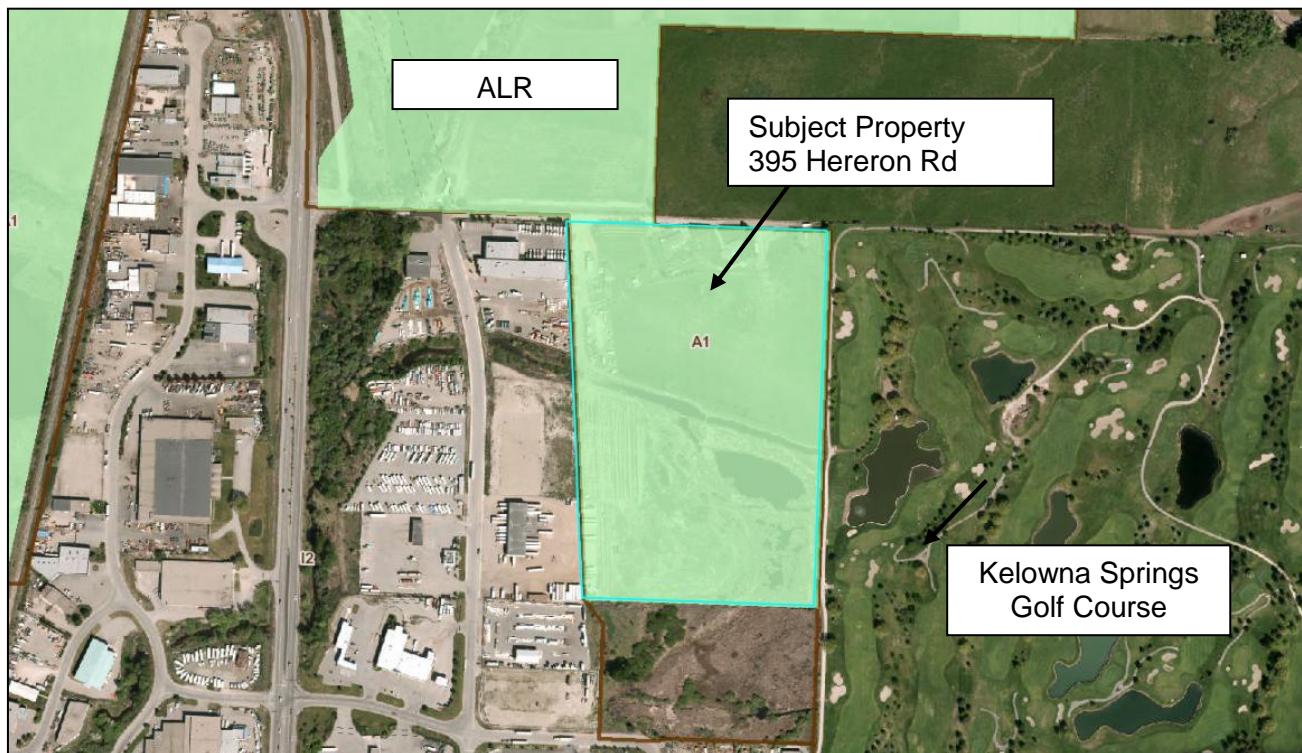
The subject property is located: within the Agricultural Land Reserve, adjacent to the municipal boundary and adjacent to the Kelowna Springs Golf Course. The Future Land Use of the property is Resource Protection Area (REP), it is zoned A1 - Agriculture 1, and it is outside of the Permanent Growth Boundary.

Parcel Summary - 395 Hereron Road:

Parcel Size: 10.3 ha (25.45 acres)

Elevation: 402 metres to 405 metres above sea level (masl) (approx.)

**Map 1 - Neighbourhood**



Zoning and land uses adjacent to the property are as follows:

**Table 1: Zoning and Land Use of Adjacent Property**

Direction	Zoning	ALR	Land Use
North	A1 - Agriculture 1	Yes	Sod Farm
South	A1 - Agriculture 1 & I2 - General Industrial	No	Wetland and Industrial
East	Parcel is split zoned between P3- Parks and Open Space & Unzoned portions	No	Golf Course
West	I2 - General Industrial	No	Industrial

## 4.2 Agricultural Land Capability

The Agricultural Land Capability of the subject property is divided roughly with mineral soils dominating the top 45.1% and organic soils dominate the bottom 53%. A sliver of mineral soils also occurs in the southwest corner of the property, representing 1.9% (see attached).

The top mineral soil polygon has an agricultural land capability rating of 70% Class 6 capability, with limitations for excessive water and salinity. This area of the property is improvable to Class 4, with some limitations during the growing season due to high ground water and a root restricting layer. This area of the property is 30% Class 4 agricultural capability, with some limitations due to excess water during the growing season. This portion is improvable to Class 2 capability, with occasional occurrence of water during the growing season.

The southern polygon, comprising 53% of the property, has 70% of organic soils with a Class 4 capability, with limitations of excess water. This is improvable to Class 2, with a limitation of occasional excess water during the growing season. This polygon is comprised of 30% of Class 5 agricultural capability, with a limitation of excess water. With improvements, this can be improved to Class 3 with occasional occurrence of excess water during the growing season, and some fertility limitations.

The small sliver, 1.9% of the property, near the southwest corner is comprised of Class 4 agricultural capability, improvable to Class 3 with a limitation due to a root restricting layer.

Class 1 to Class 3 soils are considered rare in the Okanagan.

## 4.3 Soil Capability

The property has a variety of soil types, roughly divided by the northern polygon of 45.1% of the property and the southern polygon of 53% of the property. A sliver of Okanagan (O) soils occurs at the southwest.

The northern polygon has a combination of Summerland (SR) and Guisachan (GN) soils. Summerland soils are moderately textured, relatively stone-free overlays that range in depth from 60 to 100 cm. They vary from silty loam to clay, and are imperfectly to poorly drained, with high water tables generally within 75 cm of the surface. Suitable crops include annual vegetable crops, blueberries, cereals, corn, forage. For improved sites, pears and strawberries are possible.

Guisachan soils are moderately coarse textured, stone free, typically 30 - 100 cm deep and overlay coarse fluvial fan deposits. The textures are silty and sandy loam. Groundwater is near the surface during the winter and decreases through the year, with the lowest during the autumn. The soils are suited to crops that are not sensitive to occasional high groundwater. These crops range from vegetable crops to hay and pasture.

The southern portion of the property is a combination of Rumohr (RH) soils and Tanaka (TA). Rumohr soils are semi-decomposed organic deposits which vary in depth from 20 to 160 cm or more. The soils are poorly drained, and are subject to a high groundwater table, and require



drainage for maximum crop production. Suitable crops include pasture or single cut hay without drainage. With drainage, climatically adapted crops can produce acceptable yields.<sup>1</sup>

Tanaka soils are moderately textured, gravel free fluvial fan deposits. The textures range from sandy loam to silty loam. They are poorly drained, and have a high water holding capacity. The water table fluctuates between the surface and 1.5 metre depth. Depressions are susceptible to flooding. They are limited to agricultural uses that can tolerate high groundwater. Suitable crops include pasture and hay, turf, field crops and vegetables.

There is a sliver of Okanagan (O) soils at the southwest portion of the property. These are part of the Rumohr soils group, described above.

## 5.0 Public Notification

Notification is not required for non-farm use applications to the ALC. However, if the non-farm use is successful the applicant still requires a rezoning to permit the agri-tourism accommodation and public notification is a requirement of the rezoning process.

### Report prepared by:

---

Adam Cseke, Land Use Planner

Reviewed by: ☐ Todd Cashin, Rural and Suburban Planning Manager

Approved for Inclusion: ☐ Ryan Smith, Community Planning Department Manager

### Attachments:

Soils and Agricultural Capability Maps

Soils and Agricultural Capability Legends

Subject Property Map

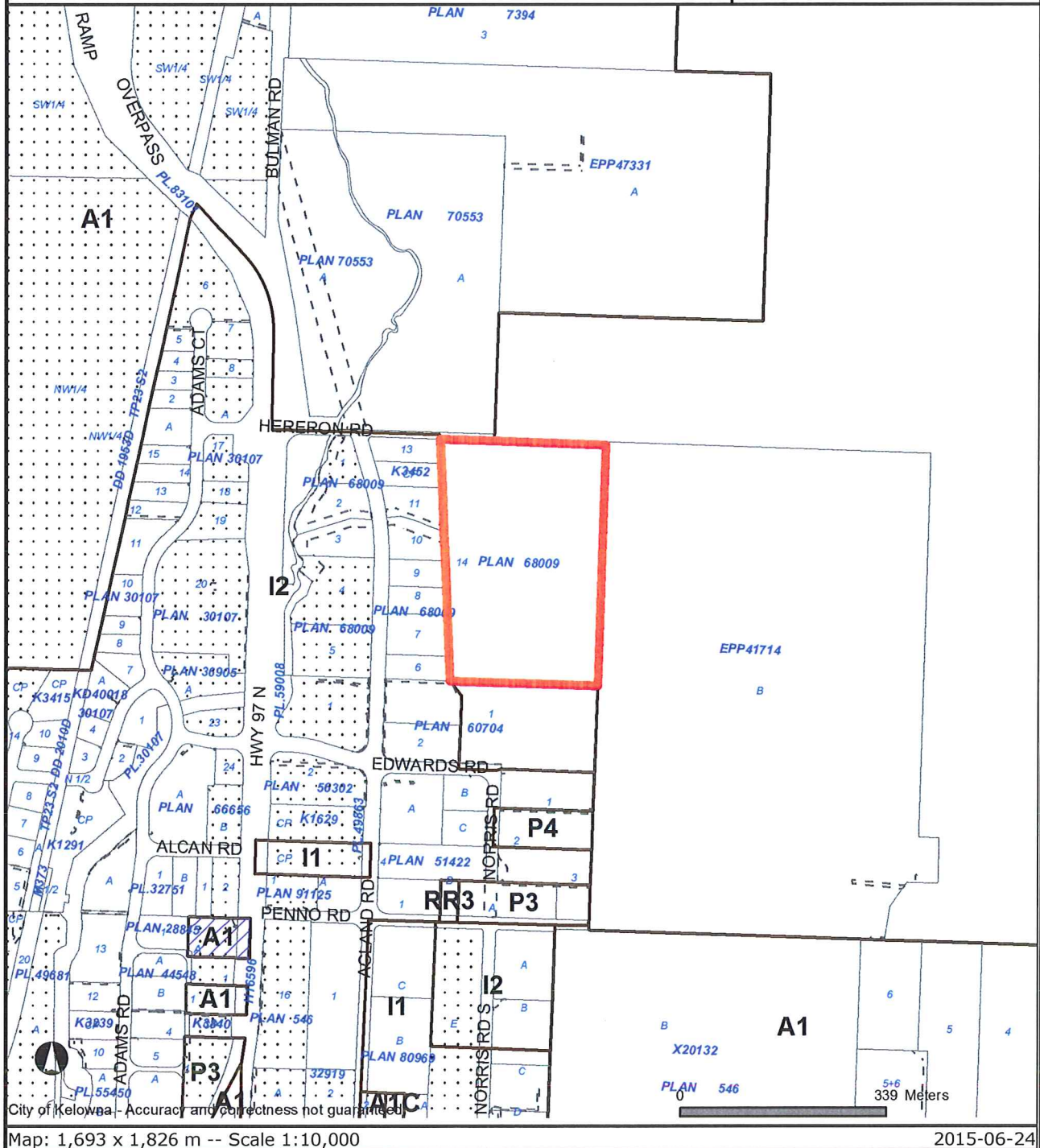
Applicant ALC Act Application for Exclusion - Supplementary Information

ALC Resolution #640/99

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<sup>1</sup> Ministry of Agriculture, 1994. Soil Management Handbook for the Okanagan and Similkameen Valleys. [http://www.agf.gov.bc.ca/resmgmt/publist/600Series/610000-6\\_Soil\\_Mgmt\\_Handbook\\_Okanagan.pdf](http://www.agf.gov.bc.ca/resmgmt/publist/600Series/610000-6_Soil_Mgmt_Handbook_Okanagan.pdf)

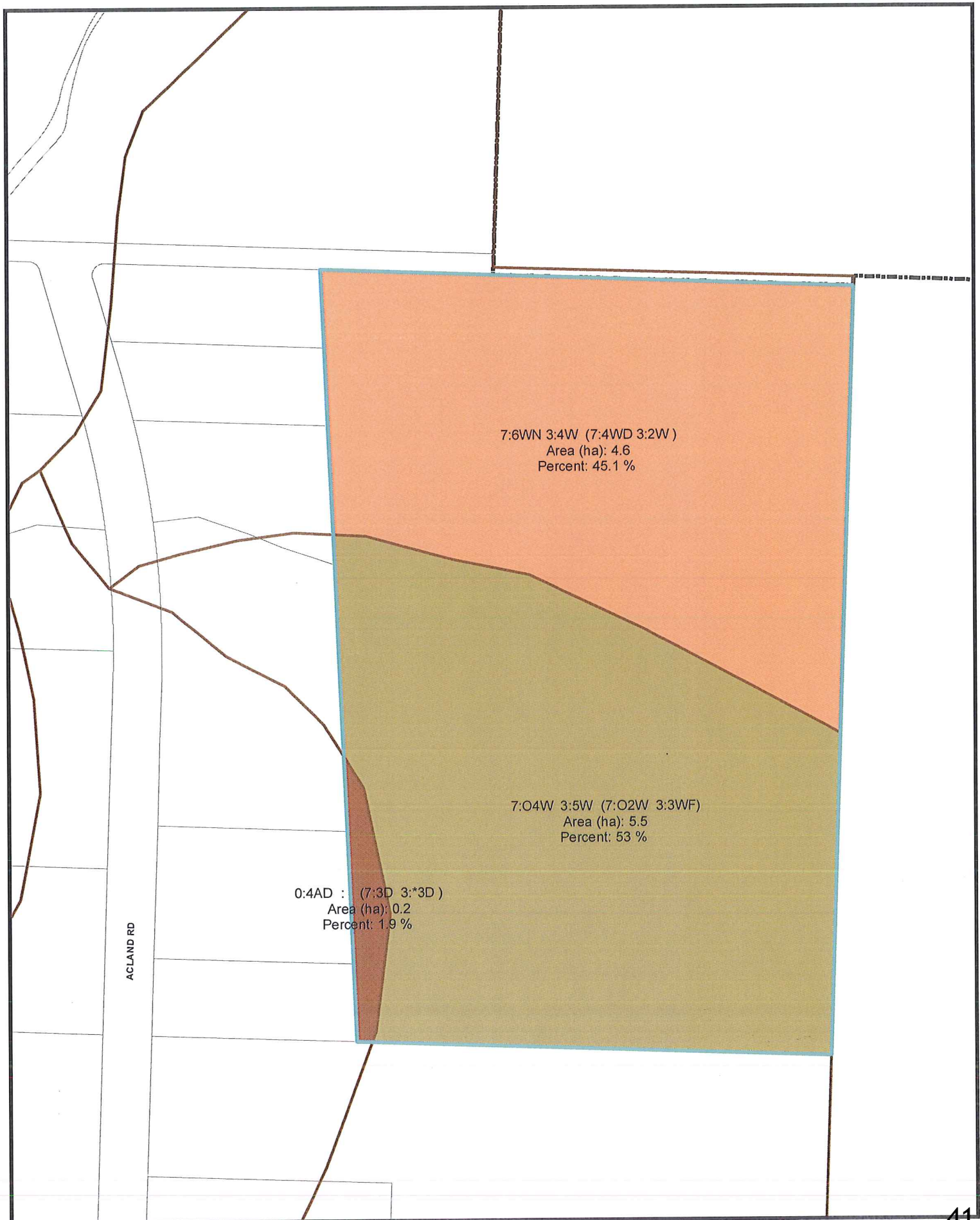
**A15-0007**



*Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only.  
The City of Kelowna does not guarantee its accuracy. All information should be verified.*



# Land Capability = Brown/ Soil Class = Green



# Land Capability = Brown/ Soil Class = Green





## BCLI Land Capability - Legend

1	Land in this Class has no or only very slight limitations that restrict its use for the production of common agricultural crops. Land in Class 1 is level or nearly level. The soils are deep, well to imperfectly drained under natural conditions, or have good artificial water table control, and hold moisture well. They can be managed and cropped without difficulty. Productivity is easily maintained for a wide range of field crops.
2	Land in this Class has minor limitations that require good ongoing management practices or slightly restrict the range of crops, or both. Land in Class 2 has limitations which constitute a continuous minor management problem or may cause lower crop yields compared to Class 1 land but which do not pose a threat of crop loss under good management. The soils in Class 2 are deep, hold moisture well and can be managed and cropped with little difficulty.
3	Land in this Class has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both. The limitations are more severe than for Class 2 land and management practices are more difficult to apply and maintain. The limitations may restrict the choice of suitable crops or affect one or more of the following practices: timing and ease of tillage, planting and harvesting, and methods of soil conservation.
4	Land in this Class has limitations that require special management practices or severely restrict the range of crops, or both. Land in Class 4 has limitations which make it suitable for only a few crops, or the yield for a wide range of crops is low, or the risk of crop failure is high, or soil conditions are such that special development and management practices are required. The limitations may seriously affect one or more of the following practices: timing and ease of tillage, planting and harvesting, and methods of soil conservation.
5	Land in this Class has limitations which restricts its capability to producing perennial forage crops or other specially adapted crops. Land in Class 5 is generally limited to the production of perennial forage crops or other specially adapted crops. Productivity of these suited crops may be high. Class 5 lands can be cultivated and some may be used for cultivated field crops provided unusually intensive management is employed and/or the crop is particularly adapted to the conditions peculiar to these lands. Cultivated field crops may be grown on some Class 5 land where adverse climate is the main limitation, but crop failure can be expected under average conditions.
6	Land in this Class is non-arable but capable of producing native and/or uncultivated perennial forage crops. Land in Class 6 provides sustained natural grazing for domestic livestock and is not arable in its present condition. Land is placed in this class because of severe climate, or the terrain is unsuitable for cultivation or use of farm machinery, or the soils do not respond to intensive improvement practices. Some unimproved Class 6 land s can be improved by draining, diking and/or irrigation.
7	Land in this Class has no capability for arable agriculture or sustained natural grazing. All classified areas not included in Classes 1 to 6 inclusive are placed in this class. Class 7 land may have limitations equivalent to Class 6 land but does not provide natural sustained grazing for domestic livestock due to unsuited natural vegetation. Also included are rock land, other non-soil areas, and small water bodies not shown on the maps. Some unimproved Class 7 land can be improved by draining, diking, irrigation, and/or levelling.

## CURLYFROG FARM PROJECTED INCOME STATEMENT

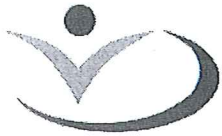
### AGRICULTURE INCOME FORECAST

1. <u>Egg sales</u>	\$4,800
2. <u>Hay sales</u>	\$3,400
3. <u>Produce sales</u>	\$ 500
4. <u>Broiler sales</u>	\$2,000
5. <u>Black walnut seed stock sales</u>	\$1,000
6. <u>Black walnut germinated see sales</u>	\$2,000
7. <u>English walnut, trazel, yellowhorn nut sales</u>	\$ 500
8. <u>Christmas tree sales</u>	\$4,000
9. <u>Willow / dogwood / Christmas floral sales</u>	\$1,000
10. <u>Value added Willow Sales</u>	\$3,000
11. <u>Pawpaw fruit sales</u>	\$5,000
12. <u>Pawpaw germinated seed sales</u>	\$1000
13. <u>Pawpaw seedling sales</u>	\$2,250
14. <u>Mulberry fruit sales</u>	\$ 500
15. <u>Yellowhorn seedling sales</u>	\$1,000
16. <u>Pickled walnut sales</u>	\$6,000
 TOTAL PROJECTED AGRICULTURE INCOME	 \$ 37,500

### AGRITOURISM INCOME FORECAST

1. Agritourism RV Camp Sites	10 stalls
2. Weekly rental (Market Value)	\$235/week
3. Tourism Duration (May-September)	17 Weeks
4. Projected Vacancy Rate	50%
 TOTAL PROJECTED AGRITOURISM INCOME	 \$19,975





# Interior Health

Adam Cseke  
Land Use Planner  
1435 Water Street  
Kelowna, BC V1Y 1J4

July 8, 2015

Dear Mr. Cseke,

RE: Application for Non-farm use in the ALR: file #A15-0007, 395 Hereron Rd, Kelowna, BC

Interior Health has an interest in community design and planning as the built environment can support access to healthy food and promote food security. There are many positive health outcomes for a community that is food secure. Healthy eating can prevent and control a number of chronic health conditions, including type 2 diabetes, heart disease, and some forms of cancer. In the interest of food security, and the ability of our citizens to access nutritious and safe food, we suggest the consideration of the following:

RV Parks are a permitted use in the ALR as per ALC Act regulation 171-2002 and under City of Kelowna Zoning A1t. As this is a permitted use by approval, there are a number of points to consider that could impact community food security.

- There is some potential to raise awareness about local food and agriculture with the establishment of RV sites located directly on the farm.
- A market would be created where the products grown on the property could be sold to the visitors.
- Food security could be enhanced with edible plants, trees and shrubs as buffer around the RV Park.
- Consider the permanency of additional structures. The land should be easily converted if it were needed for future food production.

However:

- The area where the RV Park and washroom/laundry facility are proposed could be used to grow food. Although this is a small portion of land, it is important to consider how valuable this land is for growing food to meet the needs of the population in the future.
- Would there be any detrimental effect on the soil related to compaction or pollutants?
- It is unknown if the RV Park will attract visitors interested in experiencing farm culture and learning about local food.

On behalf of the Food Security and Community Nutrition Program, I appreciate the opportunity to provide comment on the aforementioned application.

Kind regards,

Jill Worboys, RD  
Community Nutritionist  
Community Integrated Health Services



## APPLICATION BY LAND OWNER

*NOTE: The information required by this form and the documents you provide with it are collected to process your application under the Agricultural Land Commission Act and regulation. This information will be available for review by any member of the public. If you have any questions about the collection or use of this information, contact the Agricultural Land Commission and ask for the staff member who will be handling your application.*

### TYPE OF APPLICATION (Check appropriate box)

☐

EXCLUSION

under Sec. 30(1) of the Agricultural Land Commission Act

☐

SUBDIVISION in the ALR

under Sec. 21(2) of the Agricultural Land Commission Act

☐

INCLUSION

under Sec. 17(3) of the Agricultural Land Commission Act

☒

Non-farm USE in the ALR

under Sec. 20(3) of the Agricultural Land Commission Act

### APPLICANT

Registered Owner: Brenda Dureault		Agent:	
Address: 1-395 Hereron Rd		Address:	
Kelowna BC	Postal Code V1X 7V1		Postal Code
Tel. (home) (250) 801-1240 (work) ( )		Tel. ( )	
Fax ( )		Fax ( )	
E-mail brenda@curlyfrogfarm.com		E-mail	

### LOCAL GOVERNMENT JURISDICTION (Indicate name of Regional District or Municipality)

City of Kelowna

### LAND UNDER APPLICATION (Show land on plan or sketch)

Title Number	Size of Each Parcel (Ha.)	Date of Purchase	
		Month	Year
LB17680 from LB259822	10.50	06	2009

### OWNERSHIP OR INTERESTS IN OTHER LANDS WITHIN THIS COMMUNITY

(Show information on plan or sketch)

If you have interests in other lands within this community complete the following:

Title Number(s):



**PROPOSAL** (Please describe and show on plan or sketch)

I would like to rezone my existing A1 land use to A1t land use in order to facilitate and operate a 7 site RV park.  
Please see attached letter and map.

**CURRENT USE OF LAND** (Show information on plan or sketch)

List all existing uses on the parcel(s) and describe all buildings

Agro forestry operation (nut, fruit, native, Christmas trees) annual and perennial crops, Chickens (80) for egg sales,  
Pasture grass, Willow plantation for sales, restoration and public workshops,  
Main house, family member house, chicken coop, historic barn, tractor shed, 2 small storage sheds

**USES ON ADJACENT LOTS** (Show information on plan or sketch)

North First Nation land, field

East Golf Course

South Wetland

West Industrial

**DECLARATION**

I/we consent to the use of the information provided in the application and all supporting documents to process the application in accordance with the *Agricultural Land Commission Act* and regulation. Furthermore, I/we declare that the information provided in the application and all the supporting documents are, to the best of my/our knowledge, true and correct. I/we understand that the Agricultural Land Commission will take the steps necessary to confirm the accuracy of the information and documents provided.

June 18, 2015  
Date

*B. Dureault*  
Signature of Owner or Agent

Brenda Dureault  
Print Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Owner or Agent

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Owner or Agent

\_\_\_\_\_  
Print Name

Please ensure the following documents are enclosed with your application:

- Application fee payable to the Local Government
- Certificate of Title or Title Search Print
- Agent authorization (if using agent)
- Map or sketch showing proposal & adjacent uses
- Proof of Notice of Application \*(See instructions)
- Photographs (optional)

June 18, 2015

Brenda Dureault

### Curly Frog Farm RV Application Letter

I would like to rezone my existing A1 land use to A1t land use in order to facilitate and operate a 7 site RV park.

I have been living on the 26 acre property, (7 acres are wetland) since 2000 and continued with the previous, traditional agricultural operations of livestock and haying. Due to a number of reasons, flooding on the property has increased exponentially and has caused the farming practice to be forfeited resulting in the loss of farm status in 2004.

After much research, educational courses and trial and error, I began working with the Ministry of Ag, the Ministry of Forests and the BC Wildlife Federation to develop a growing operation designed to work with the increasing high water table. The overall goal is to create value and sustainability economically, with the land, as well as with community. In 2013, I applied for and received a grant from the Agroforestry Industry Development Initiative with letters of support from Dave Trotter (*Sector Development Branch Ministry of Agriculture*) and Michael Carlson (Scientist emeritus, BC Ministry of Forests, Lands and Natural Resource Operations). Mr. Trotter invited me to speak about my farm operation at the 2014 Pacific Agriculture Trade Show for the Horticulture Grower's Short Course on the topic of alley cropping with black walnut and pawpaw. He followed up my talk in writing about my 'passion, commitment and level-headedness' and said my business concept expresses well the facets of agroforestry. To date, over 1500 trees (nut, fruit, xmas and native) have been planted as part of my agroforestry practice. Crops such as garlic, edamame beans, melons, broccoli, cucumber, herbs, tomatoes, strawberries, and flowers have been added for farm gate sales in addition to the existing egg sales. In September 2015, chinampa gardens will be constructed as part of a grant from the BC Wildlife Federation and the Wetland Keepers community. Public tours, workshops and children's summer camps are ongoing, showcasing innovative plantings, sustainable growing methods and land based creative arts.

In 2013, I became aware of the Central Okanagan Development Commission's Agri-Tourism Business Planning Program and on acceptance to the program, began the formal process for creating a business plan. My mission is to inspire and educate patrons about local, innovative farming practices and the wide range of plantings (more than just grapes), the Okanagan culture and geography. In addition, they would be able to purchase eggs, produce, nuts, flowers and willow produced on the farm as well as participate in educational workshops. In a 2014 site visit,



Tourism Kelowna Executive Director Nancy Cameron commented specifically on the potential for Curly Frog Farm as a new tourism venue in the Region: 'Visiting your farm and meeting you was highlight for me. I really believe that you have an interesting attraction forming and an important first step is to create local awareness'. The site chosen for the RV Park is approximately 160 feet by 120 feet which is less than 5% of the total farm area and was previously used as the "boneyard" storing miscellaneous items. It will be setback 15m from creek (south side) as per covenant. Existing roadways and perimeter fencing around the site would be used as well additional buffer planting to create a natural, softer edge. Along the entrance of the roadway, a building is proposed to house the washroom and laundry facility as well the power connection. The neighbor to the west is an industrial park and to the north is a grass field owned by the Westbank First Nations.

I believe innovative, authentic, diversified, community based farmers are key to the future of agriculture. By invoking personal experiences on ALR land through Farm RV park destinations, we are able to showcase our farming stories and educate the public about the valuable health and environmental services we provide. These personal connections would help patrons make better informed buying decisions to support farmers everywhere and create a new positive outlook and awareness on the agricultural industry.

Sincerely,

Brenda Dureault

## PLAN No. KAP

*Journal of Interpersonal Violence*

SCALE: 1:250 PCS 200 000



THIS IS SCHEDULE A \*TO CERTIFICATE  
OF ORDER 104874 OF THE LAND  
RESERVE COMMISSION  
DATE Dec 19/2003  
CHIEF EXECUTIVE OFFICER  
14422 PLS (S) 2004

*[Faint handwritten notes and signatures are visible across the page.]*

*Journal of Management Education* 30(6)

[illegible]





## Land Reserve Commission

Working Farms, Working Forests

December 19, 2000

Reply to the attention of Vickie Shillington

REGISTRAR OF LAND TITLES  
LAND TITLE OFFICE  
#114 - 455 COLUMBIA STREET  
KAMLOOPS, B.C. V2C 6K4

Dear Sirs:

Re: Application #G-32751 *File*  
Plan of Subdivision of Lot 4 Plan 4183 D.L. 123 Except Plans B6145 and  
H16596 and of Parcel A (DD39702E and Plan B6145) of Lot 4 Plan 4183  
D.L. 123 Except Plans H764 and H16595 Osoyoos Division Yale District

Please find enclosed a Certificate of Order #640/99 authorizing the deposit of the subdivision plan attached thereto marked Schedule "A" and the exclusion of the portion described a Road west of the original & present natural boundary of Mill Creek and, Lots 1 - 13 inclusive KAP 68009

Note that deposit of this plan is conditional upon concurrent registration of a restrictive covenant in the Commission's favour on the titles of Lots 1, 13 & 14 KAP 68009.

It would be appreciated if a copy of the subdivision plan could be forwarded to our offices for our records. If this is not possible, please note the following information and return a copy of this letter to our offices.

Date of Registration Dec. 28/00

Plan Number KAP 68009

Thank you for your attention on this matter. Please quote the above noted application number in any future correspondence.

Yours truly,

LAND RESERVE COMMISSION

per: *LB*

K. B. Miller, Chief Executive Officer

cc: Kidston & Co. (#RAT/3276), #203, 125 Hwy 33E. Kelowna, BC V1X 2A1

AU/lv Encl.

THE SCHEDULE REFERRED TO IN THIS ORDER IS AN EXACT  
COPY OF PLAN KAP 68009 AND INCLUDES THE  
ENDORSEMENT OF THE LAND COMMISSION  
DATED Dec. 19/00 AND SIGNED BY ITS  
GENERAL MANAGER.

**CERTIFICATE OF ORDER OF THE LAND RESERVE COMMISSION  
PURSUANT TO THE AGRICULTURAL LAND RESERVE ACT**

**Re: Plan of Subdivision of Lot 4 Plan 4183 D.L. 123 Except Plans B6145 and H16596 and of Parcel A (DD39702E and Plan B6145) of Lot 4 Plan 4183 D.L. 123 Except Plans H764 and H16595 Osoyoos Division Yale District**

hereinafter referred to as the "land" and shown more particularly on a proposed plan of subdivision prepared by Douglas A. Goddard, B.C. Land Surveyor, with the survey being completed on the 23<sup>rd</sup> day of October, 2000; a print of the plan being annexed hereto and marked Schedule "A",

I hereby certify that the Land Reserve Commission, by Resolution #640/99 dated the 1<sup>st</sup> day of October 1999

- 1) approved an order authorizing the Registrar of Land Titles to accept an application for the deposit of the attached subdivision plan, subject to compliance with any other enactment and legislation and subject to the concurrent registration of a restrictive covenant in the Commission's favour as a charge against a portion of Lots 1, 13 & 14 KAP\_\_\_\_\_.
- 2) approved an order under Section 15(2) of the *Agricultural Land Reserve Act*, allowing the exclusion of the portion described a Road west of the original & present natural boundary of Mill Creek and, Lots 1 – 13 inclusive KAP\_\_\_\_\_ and thereby amending the Agricultural Land Reserve Plan of the Regional District of Central Okanagan.

Dated at Burnaby, British Columbia, this 19th day of December, 2000.

ORIGINAL SIGNED BY  
COLIN FRY

\_\_\_\_\_  
K. B. Miller, Chief Executive Officer  
LAND RESERVE COMMISSION

Only Lot 14 resulting from this subdivision is wholly or partially in the Agricultural Land Reserve.



November 1, 1999

Reply to the attention of Ross Blackwell

Mill Creek Development Ltd.  
608 Royal View Court  
Kelowna, B.C. V1Y 9K5

Dear Sir/Madam:

Re: Application #G-32751

Further to the hearing on lands described as Lot 4 Parcel A (DD39702E & Plan B6145) District Lot 123 ODYD (Osoyoos Div of Yale) Plan 4183 EXCEPT Plans H764 & H16596; and Lot 4 District Lot 123 ODYD (Osoyoos Div of Yale) Plan 4183 EXCEPT Plans B6145 & H16596, the Agricultural Land Commission has now had an opportunity to thoroughly review all of the information contained in your application.

The Commission, acting under Section 15(2) of the *Agricultural Land Commission Act*, by Resolution #640/99, allowed your application to exclude 10.4 ha of the above referenced properties subject to the following conditions:

1. submission of a drainage plan, for ALC review, that addresses the drainage problem and ensures that development on the subject lands will not create drainage problems on other ALR lands;
2. installation of buffering in order to buffer the ALR lands to the north. You are requested to submit a buffering scheme to the Commission for its review.

The approximate area approved for exclusion is outlined on the plan attached hereto.

When these conditions have been met to the satisfaction of the Agricultural Land Commission, the land referred to above and shown on the attached map will be excluded from the Agricultural Land Reserve Plan of the Regional District of Central Okanagan in accordance with Section 16 of the *Act*.

We suggest that you consider preparing a subdivision plan to create the excluded area as one or more legal parcels of land. This procedure will simplify any future administrative dealings with the excluded area since it will then be one or more separate land registry parcels on a Certificate of Indefeasible Title and will no longer be encumbered in any way by the Agricultural Land Reserve designation. When the conditions have been met and the final survey plan is prepared, send us two paper prints well in advance of commencing registration procedures at the Land Title Office so that we may authorize the Registrar of Land Titles to accept the deposit of the plan. We will subsequently issue a Certificate of Order confirming the exclusion.

This exclusion in no way relieves the owner or occupier of the responsibility of adhering to all other legislation which may apply to the land. This includes zoning, subdivision, or other land use bylaws, and decisions of any authorities which have jurisdiction.

...2

Mill Creek Development Ltd. - November 1, 1999  
Page 2

The remainder of the property is still within the Agricultural Land Reserve and continues to be subject to the provisions of the *Act* and regulations.

Please quote Application #G-32751 in any future correspondence.

Yours truly,

AGRICULTURAL LAND COMMISSION

Per:



A. Chambers, Chair

cc: City of Kelowna - (File #A99-101)  
B.C. Assessment Authority, Kelowna

RB/lv/Encl.  
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**MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION**

Meeting held at the Provincial Agricultural Land Commission Office, 4940 Canada Way, Burnaby, B.C.  
on the 1st day of October 1999.

PRESENT:	A. Chambers	Chair
	M. Thompson	Vice Chair
	K. Alberts	Commissioner
	J. Bakker	Commissioner
	G. Horn	Commissioner
	D. Taylor	Commissioner

An application under Section 15(1) of the *Agricultural Land Commission Act* was considered concerning land described as Lot 4 Parcel A (DD39702E & Plan B6145) District Lot 123 ODYD (Osoyoos Div of Yale) Plan 4183 EXCEPT Plans H764 & H16596; and Lot 4 District Lot 123 ODYD (Osoyoos Div of Yale) Plan 4183 EXCEPT Plans B6145 & H16596.

**APPLICATION:** #02-G-KELO-99-32751-0

**APPLICANT:** Mill Creek Developments Ltd

**PROPERTY LOCATION:** Highway 97 Sector of Kelowna

**LOCAL GOVERNMENT:** City of Kelowna

**SUBJECT PROPERTY SIZE (Ha):** 20.6

**AREA WITHIN ALR (Ha):** 20.6

**NUMBER OF PARCELS:** 2.0

**PROPOSAL:** Exclude approximately the westerly 7.0 ha of Parcel A and 3.0 ha of Lot 4 in order to develop the area for industrial purposes - thus 10.2 hectares would remain in the ALR as one titled property with 10.4 hectares being excluded.

**TYPE OF APPLICATION:** Exclusion (Private Land Owner)

**DATE OF PURCHASE:** 2/01/95

**DATE APPLICATION RECEIVED:** 5/12/99

**PRESENT USE:** Pasture/residence/ancillary outbuildings

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**AGRICULTURAL CAPABILITY:**

<b>Unimproved Ratings</b>	<b>Improved Ratings</b>	<b>% of Unit</b>
7:6WN 3:4W	7:4WD 3:2W	30
7Ø4W 3:5W	7Ø2W 3:3WF	25
7Ø4W 3Ø5W	7Ø2W 3Ø3LW	25
7Ø4W 3:5W	7Ø2W 3:3WF	20

**SURROUNDING LAND USES:**

NORTH: pasture

SOUTH: non-ALR - industrial

EAST: Kelowna Springs Golf Course

WEST: Highway 97/industrial

**COMMUNITY PLAN DESIGNATION:** Rural/Agricultural and Industrial**ZONING:** Agriculture (mls 2.0 ha)**LOCAL GOVERNMENT RECOMMENDATION:** support**BACKGROUND INFORMATION:**

- the Commission agreed to extension of the industrial lands and Acland Road north by way of the OCP review. Furthermore, the Kelowna Agriculture Plan identifies the area west of the proposed road extension as being suitable for exclusion. A portion of the property has also been identified as warranting protection as a wetland and in the *Ellison Basin Plan*, the wetland area (pond) a potential detention pond site.
- Brownlee of the Soils Branch indicated that swampyness existing on Lots 2 and 3 to the south was limited to that area only and did not impact the subject properties in his 1980 assessment.

**RELEVANT APPLICATIONS**


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1) Application # 22150-0      Applicant: Wynyork Investments Ltd      Decision Date: 6/22/88  
 Proposal: exclude the 1.3 ha parcel as it is surrounded by non-ALR lands  
 Decision: allowed

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2) Application # 13438-0      Applicant: Prism Enterprise      Decision Date: 11/26/81  
 Proposal: exclude the 3.3 ha property for industrial use  
 Decision: allow subject to proof that drainage from the property will not flow onto adjacent ALR lands

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- 3) **Application # 09711-0**      **Applicant:** Kovan Developments Ltd      **Decision Date:** 3/18/80  
**Proposal:** exclude the 6.5 ha property - Mr. Brownlee of the Soils Branch indicated that the swamp area is entirely confined the proposed exclusion area.  
**Decision:** allowed due to swampyness
- 
- 4) **Application # 11254-0**      **Applicant:** Trent Ketcheson      **Decision Date:** 12/17/80  
**Proposal:** exclude the 3.2 ha property due to agricultural capability  
**Decision:** allowed
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- 5) **Application # 18669-0**      **Applicant:** Gerhard Kapchinsky      **Decision Date:** 11/29/84  
**Proposal:** develop an 18 hole golf course, RV park, and subdivide a 2.0 ha homesite from the 43.4 ha property - used for hay  
**Decision:** refused due to agricultural capability and impact
- 
- 6) **Application # 20220-0**      **Applicant:** Gerhard Kapchinsky      **Decision Date:** 9/19/86  
**Proposal:** exclude the 43.4 ha property in order to develop a golf course  
**Decision:** refused due to impact and agricultural capability - later excluded by ELUC
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**STAFF COMMENT/RECOMMENDATION:** The property is impacted by periodic inundation however this does not negate its agricultural capability. The proposed exclusion would be removing the better, dryer portion of the property from the ALR; the remainder may well be too small to be of use for agriculture when considering wetness limitations. Therefore, if a net benefit to agriculture is intended it is suggested that some form of consolidation be achieved with the parcel to the north (eg Lot 2 or 3 Plan 2162) with some reasonable drainage improvements.

**HEARING DETAILS:**

- 19 July 1999 @ the Council Chambers, City of Penticton
- All present for the Commission
- Rene Dureault present for the applicant

**HEARING NOTES:**

- spring flooding on the properties is quite severe most coming from Mill Creek
- City of Kelowna has stated to the applicant that they want a restrictive covenant to limit development on the ALR remainder in order to preserve it for wetland/pond with a 15 m creek dedication and a 0.8 hectare road dedication for dyking.

**DISCUSSION:** Concern was expressed regarding the proposal and current state of inundation in view of the 1980 Brownlee Report. Furthermore, it was felt that any development on the subjects lands should contain an element to buffer ALR lands to the north.

**IT WAS**

**MOVED BY:** Commissioner K. Alberts

**SECONDED BY:** Commissioner D. Taylor

That the application be approved subject to submission of a drainage plan that addresses the drainage problem and ensures that development on the subject lands will not create drainage problems on other ALR lands, and installation of buffering in order to buffer the ALR lands to the north.

This decision is subject to compliance with all other legislation.

**CARRIED**

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**TITLE SEARCH PRINT**

Requestor: Brenda Dureault

2014-07-14, 13:17:00

**\*\*CURRENT INFORMATION ONLY - NO CANCELLED INFORMATION SHOWN\*\***

<b>Land Title District</b>	KAMLOOPS
Land Title Office	KAMLOOPS
<b>Title Number</b>	LB417680
From Title Number	LB259822
<b>Application Received</b>	2010-11-09
<b>Application Entered</b>	2010-11-12
<b>Registered Owner in Fee Simple</b>	
Registered Owner/Mailing Address:	BRENDA JEAN DUREAULT, NURSE 395 HERERON ROAD KELOWNA, BC V1X 7V1
<b>Taxation Authority</b>	CITY OF KELOWNA BLACK MOUNTAIN IRRIGATION DISTRICT
<b>Description of Land</b>	
Parcel Identifier:	024-920-398
Legal Description:	LOT 14 DISTRICT LOT 123 OSOYOOS DIVISION YALE DISTRICT PLAN KAP68009
<b>Legal Notations</b>	
	ZONING REGULATION AND PLAN UNDER THE AERONAUTICS ACT 'CANADA' FILED 13/12/1977 UNDER NOS M74009 AND S23537 SEE PLAN M13304
	THIS CERTIFICATE OF TITLE MAY BE AFFECTED BY THE AGRICULTURAL LAND COMMISSION ACT SEE PLAN M11328
	RE: PARAGRAPHS (E) AND (F) SEC 23(1) LTA SEE D.F. E32314 DATED 03/08/1972



**TITLE SEARCH PRINT**

2014-07-14, 13:17:00

Requestor: Brenda Dureault

**Charges, Liens and Interests**

Nature: COVENANT  
Registration Number: KP110495  
Registration Date and Time: 2000-12-05 09:34  
Registered Owner: THE CROWN IN RIGHT OF BRITISH COLUMBIA  
CITY OF KELOWNA  
Remarks: INTER ALIA

Nature: COVENANT  
Registration Number: KP117251  
Registration Date and Time: 2000-12-29 09:09  
Registered Owner: LAND RESERVE COMMISSION  
Remarks: INTER ALIA

Nature: MORTGAGE  
Registration Number: CA1171519  
Registration Date and Time: 2009-06-30 14:57  
Registered Owner: VALLEY FIRST CREDIT UNION  
INCORPORATION NO. FI-149

**Duplicate Infeasible Title** NONE OUTSTANDING

**Transfers** NONE

**Pending Applications** NONE



## Agricultural Advisory Committee Minutes

Date: Thursday, November 12, 2015  
 Location: Council Chamber  
 City Hall, 1435 Water Street

Committee Members Present: Domenic Rampone, Ed Schiller, Jeff Ricketts (Alternate), John Janmaat, Keith Duhaime, Pete Spencer, Yvonne Herbison, Jill Worboys (Interior Health)

Committee Members Absent: Tarsem Goraya and Kevin Daniels (Alternate)

Staff Present: Urban & Rural Planning Manager, Todd Cashin; Planner, Melanie Steppuhn and Legislative Systems Coordinator, Sandi Horning

(\* denotes partial attendance)

### 1. Call to Order

The Chair called the meeting to order at 6:01 p.m.

Opening remarks by the Chair regarding conduct of the meeting were read. The Chair reviewed the Terms of Reference for the Committee.

### 2. Applications for Consideration

#### 2.1 1040 Old Vernon Road, A15-0010 - 0698329 BC Ltd. (Benson Law LLP)

Staff:

- Displayed a PowerPoint presentation summarizing the application before the Committee;
- The applicant is requesting permission from the Agricultural Land Commission to exclude the property from the ALR under Section 30(1) of the ALC Act.
- The property is located on Old Vernon Road, west of Morrison Road, in the Rutland Sector of the City.
- The property is outside the Permanent Growth Boundary, and is adjacent Regional District lands to the north, and to the east, opposite Old Vernon Road.
- The property is in the ALR, surrounded by properties in the ALR within the City of Kelowna to the west, south and east. ALR properties are adjacent also within the Regional District, to the north, not shown here.
- The property is within the Resource Protection Area, surrounded by others in the Resource Protection Area. There is Single / Two Unit Residential to the southeast.
- Prior to the enactment of the ALR, a small sawmill existed on the property. Over time, its footprint expanded to the adjacent property to the west and to the east. In 2000, the ALC retroactively gave permission to allow an existing recycling operation on the property, for construction waste products such as concrete and wood. This was allowed with the

conditions of fencing and the reclamation of Lot 1 back to agriculture, to the east. In 1985, the ALC gave the permission to expand, to include the adjacent property to the west, 982 Old Vernon Road.

- **The Agricultural Capability:**
  - Provincial Rating Class 5 (Improvable to Class 1);
  - 2013 Report for 982 Old Vernon Road (not the subject property): *The improved ratings increased to Class 1 (northwest corner) to 3A (south and central area) with irrigation;*
  - Conclusion of report: rehabilitation costs prohibit soil based agriculture on 982 Old Vernon Road.
- Provided rehabilitation quote/costs and the conclusion: rehabilitation costs prohibit soil based agriculture on 982 Old Vernon Road (Lot 3).
- **982 Old Vernon Road Agrology Report - Non-Soil Based Agriculture.** Soil bound livestock (e.g. Grazing) - cost prohibitive
  - Report cited the ability to install buffers as benefit to farming
  - Conclusion of report: rehabilitation costs prohibit all Non-soil based agriculture on 982 Old Vernon Road.
- **Public Notification:**
  - posted signage on their property of the application for exclusion;
  - advertised the application in the Kelowna Capital News (July 17<sup>th</sup> and July 24<sup>th</sup>, 2015); and
  - sent registered mail to all neighbours immediately adjacent their property.
- City Council is asking the Agricultural Advisory Committee for your recommendation for this application with respect to the City of Kelowna and ALC regulations and policies. Considerations should be given to agriculture capability, as well as the potential impacts to agriculture, both on this property and any potential impacts to surrounding agricultural parcels.
- Responded to questions from Committee members.

#### Brett Sagquin, Applicant's Representative

- Provided a brief history of the subject property.
- This property has not been farmed since at least the 1950's.; however it was included in the ALR back in 1974-1976.
- Why a property operating a sawmill was part of the ALR in the first place is not known. Since the ALR, the property has never been used for agricultural purposes.
- This process started back in 2006, prior to the owner actually having purchased the property.
- Displayed a sketch of the proposed operation on the subject property and confirmed that the owner is proposing a recycling facility.
- Contacted the ALC and was made aware of the conditions required in order to have the property excluded from the ALR.
- The ALC approved of the recycling facility on 1040 Old Vernon Road.
- Displayed a copy of the ALC's letter advising of their approval. As a result of the ALC letter, he completed the purchase of the property and resumed the recycling operation.
- Was then advised by the City that the non-conforming use could no longer exist as recycling operation had ceased on the property for a period of 6 months.
- Displayed a copy of the letter from the City and advised that the ALC then issued a stop work order.
- The events have led to this application before the Committee today.
- An OCP amendment will also be required along with the exclusion of the property.
- Advised that the owner is relying heavily on the agrologist report as the properties are identical.
- The sawmill operation started on Lot 2, was expanded on Lot 2 and was then moved to Lot 3.
- The owner suggests that Lot 2 is in worse shape than what was suggested.
- The owner has tried to remediate the property to the tune of \$25,000.00.
- There have also been a few spontaneous combustion fires resulting in the owner having to purchase firefighting equipment.
- The owner has also fenced the property at considerable cost.



- Asking for an exclusion as the cost to remediate the property would be in excess of \$1 Million.
- There is potential contamination of the ground water and soil on the property. The cost of future improvements does not take into account the true cost of remediation.
- Advised that BC Farm Assessment Office shares the concerns of the Agrologist: Can the property actually achieve 'farm classification'?
- Referred to parts of the Committee Report and believes that this property qualifies as an extra-ordinary circumstance and should be excluded from the ALR.
- The owner purchased the property in the hopes of cleaning up the site and operating a recycling facility.
- The new zone of I2 would provide a buffer between the neighbouring properties and the sawmill property.
- The previous owners, the Russos, are unaware of any farming on the property prior to 1950.
- This would not set a precedent as it is unique as far as viable agricultural property.
- Requesting support for the exclusion.

**AAC/Applicant Discussion:**

- The Applicant responded to questions from the Committee members.
- The applicant advised that if exclusion is granted, the proposal is to operate the land as a recycling facility.
- Advised that the owner had discussions with the City for monetary reimbursement to assist with the removal of the waste. These were verbal and nothing has been put in writing.
- Confirmed the Applicant's decision to go with exclusion rather than non-farm use.
- Reconfirmed that the property has never used for agricultural purposes.
- Advised that the previous owners, the Kandolas, investigated using the property in other ways that would benefit agriculture such as composting for crops, greenhouse uses etc; however those operations would not generate enough revenue to rehab the property.
- The owner has been in the construction demolition business for the past 37 years.
- Advised that it was the previous owners, the Kandolas, who ceased operating the sawmill on the property which is the rationale for the grandfathered right to the non-conforming use being lost;

**AAC/Staff Discussion:**

- Confirmed that an agrologist report was not conducted on the subject property; however an agricultural assessment can be requested.

**Moved By Domenic Rampone/Seconded By Jeff Ricketts**

THAT the Agricultural Advisory Committee recommends that Council NOT support an application to the Agricultural Land Commission under Section 30(1) of the *Agricultural Land Commission Act* for an "exclusion" from the Agricultural Land Reserve on the subject property at 1040 Old Vernon Road.

**Carried**

Ed Schiller - Opposed.

**ANECTODOTAL COMMENT:**

The Agricultural Advisory Committee did not support the exclusion as the property has been in the ALR since 1974 and suggested that the City assist the landlord with any grants that may be available to assist with the rehabilitation of the site. The Committee recognizes the legacy of the property and encourages the City to work with the Applicant to address the costs of remediation.

**2.2 2075 KLO Road, Rezoning Application No. Z15-0045 and Text Amendment No. TA15-0010- Tyler Lintell**

Staff:

- Distributed a handout from the Applicant.
- Displayed a PowerPoint presentation summarizing the application before the Committee.
- The Application is to rezone the subject property to facilitate the development of RV sites on the subject property. As well as amend the A1 zone to increase the allowable number of RV sites from 5 to 10.
- Subject parcel is located between KLO Road and Mission Creek in the South Pandosy - KLO sector of Kelowna.
- Subject parcel is in the ALR, with neighbouring properties in the ALR.
- Future land use in the area is Resource Protection, Park, Recreation and Single Two Unit Residential.
- The subject parcel is 14.2 acres (5.75 ha) in size and adjacent to KLO Road and Mission Creek Greenway.
- Existing conditions on the site include approximately 3.1 ha in hay, principal dwelling, accessory building, barn, tennis court and an ornamental pond.
- The highlighted structures and ornamental landscape areas are approximately 4,900 m<sup>2</sup>, with the front lawn being 2,962 m<sup>2</sup>.
- Homeplating principles outline that the total area of all agriculture and non agricultural buildings should take up 3,600m<sup>2</sup>. The square shown on the aerial photo which includes a portion of the front lawn, tennis courts, ornamental pond, house and detached garage is 8,961 m<sup>2</sup>.
- Including the barn and driveway / parking areas the total homeplate is 13,193 m<sup>2</sup>.
- Agri-tourist accommodation is a **Permitted Non Farm Use** by the ALC. The use is not a designate **Farm Use** and may be restricted or prohibited by local governments.
- ALC requires the following items to be met in order to permit agri-tourist accommodation: The property must have farm status, the accommodation must be accessory to agriculture, and a maximum of 10 accommodation units.
- The Ministry of Agriculture has recently proposed the following requirements:
  - Defining "Accessory" which includes looking at farm income vs. non-farm income. Recommendations that local governments restrict unit amounts on smaller lots. And that homeplating principals are to be utilized.
- The City of Kelowna has taken steps since 2009 to restrict Agri-tourism Accommodation as it was being abused. Major concerns from neighbours, staff, and Kelowna residence were:
  - Year round & long term rentals;
  - Becoming the Principal Use on the property - farming was neglected or minimal;
  - Nuisance to both adjacent agriculture & residential lands;
  - Septic failures;
  - Land value speculation jeopardizing future farmers;
  - Storage of RV's.
- The City of Kelowna, working with Council and Residents worked towards restrictions. These included:
  - Agritourist accommodation is only permitted as a Secondary Use
  - Defining Agri-tourist accommodation as the seasonable availability of short term accommodation for tourists on a farm, orchard, or vineyard in association with an agri-tourism activity which is subordinate and secondary to the principal agricultural use. Typical uses include but are not limited to seasonal farm cabins, and campsites / recreational vehicle sites. Seasonal, in this instance, means the accommodation must be available for use only between April 1 and October 31 of each year.
- Rezoning to permit the use - any agri-tourism accommodations must be considered by Staff, AAC, and Council to ensure the use is appropriate on the land and meets current bylaws.
  - Must accompany agri-tourism;
  - Maximum number of accommodation units based on parcel size - this is to help eliminate accommodations being principal use;
  - Homeplating principals;
  - Landscape buffering.

- The proposed rezoning and text amendment are to facilitate 10 rv sites on the subject parcel. A text amendment is required as current zoning bylaw limits the number of accommodation units based on parcel size with the intent of agri-tourism as a secondary use on the property, ensuring agriculture as principle use.
- The applicant is proposing to increase farming if rezoning and the ability to develop 10 RV sites is granted. The proposed increase in farming would create an agri-tourism environment that will warrant agri-tourism accommodation. At this time a hay field is the sole means of agriculture.
- The applicant will also be required to obtain a variance in order to locate the RV sites more than 30.0 m from the principal dwelling. This slide shows current homeplating principals, with the intent of keeping non-agriculture buildings within 60 m of a fronting road or property line.
- Ten RV sites on the subject property with current farming would not meet the bylaw in the following ways:
  1. Agri-tourism does not exist - there is no agriculture that would draw public to the property to enjoy agriculture;
  2. The principal use would be RV sites. 10 RV sites would out perform the existing hay field in income, staffing requirements, visitors to the property, and infrastructure (water, electricity, power);
  3. The allowable accommodation units is 5 for a parcel of this size;
  4. Homeplate principles are not met as the proposed location of the RV Sites is well outside the 30.0 m boundary of the principal residence.
- The applicant is addressing these items by proposing an increase of agriculture, an Amendment to the A1t zone to increase the number of units from 5 to 10, and applying for a variance to allow the units to be farther than 30.0 m from the principal residence.
- The soils on the property are Class 4W & 5W with improved ratings of Class 2. There is excess water, including high groundwater. The soil is common with the floodplain of Mission Creek. Overall, the soil and conditions in this area are suitable for forage crops. To date, no plan as to how fruit trees as shown on the proposed plan would be viable on the land.
- The applicant completed a neighbourhood consultation including information sheets to adjacent land owners and a public information session. Support and non-support were noted.
- Non-support voiced concerns including an increase in large vehicle traffic on an already busy road with sightline issues. Noise. Neighbours along mission creek were concerned with views from their yards. The possibility of expanding to more than 10 RV sites.
- Supporters liked the location of the RV sites in the rear of the property.
- Responded to questions from the Committee.

#### Tyler Linttell, Applicant

- Displayed a PowerPoint presentation summarizing the agri-tourism proposal.
- The proposal will provide for local food production and more RV accommodation, particularly during the summer months.
- Noted the previous plan and provided an overview of the revised plan.
- Advised that he has been in contact with BC Tree Fruits and Richard Bullock and has been advised that the only orchard that would likely succeed on the site would be pears. It should be noted that pears not immediately viable and would take 8-10 years to be viable.
- A market garden or berry farm would be more viable.
- Provided an overview of the type of market garden he is proposing.
- Wise Earth Farms has committed to a partnership with the proposed market garden.
- Advised that raspberries would be planted as part of the border of the property.
- Advised that the chickens will be separate from the garden and the other agricultural areas.
- The front lawn of the property is ready to be planted.
- Spoke to the rationale for the proposed RV sites and confirmed that the proposal includes full hook-ups and no tenters.
- Prepared to meet both ALC and City regulations.
- Have 2 letters of support from adjacent neighbours.



- Provided an overview of the poultry side of the proposal.
- Have constructed an extensive chicken coup for the laying hens with the construction of the meat bird coup is in progress.
- Provided an overview of the apiary (bees).
- Made reference to an email with Martin Collins of the ALC and confirmed that the site meets all ALC regulations and has farm status.

#### AAC/Applicant Discussion:

- Responded to questions from the Committee members.
- None of the property has ever been sprayed, except for the front lawn. The entire hay field has never been sprayed.
- Part of the property cannot be certified organic, but the majority of the property may be.
- Advised that the ALC is okay with this proposal without a bond; however City staff is not willing to accept a bond to ensure agriculture.
- The RV park will assist in supplementing the farm's income. Believes that RV parks are not viable on commercial land, but are viable on agricultural land.
- Advised that there is a crop-share agreement with Wise Earth Farms.
- Indicated the location of the existing sewer line and the proposed expansion to the RV site.
- Advised that the proposed RV site is currently not producing any agriculture.
- The property is part of the City water utility.

#### AAC/Staff Discussion

- Spoke to the difference between the ALC's regulations and the City's regulations regarding agri-tourism.
- Spoke to bylaw enforcement challenges.
- Confirmed that 28 acres would allow 10 RV sites if the existing parcel was consolidated with the adjacent property.

#### Moved By Ed Schiller/Seconded By Keith Duhaime

THAT the Agricultural Advisory Committee recommends that Council support Rezoning Application No. Z15-0045 changing the zoning classification located on 2075 KLO Road, Kelowna, B.C., from the A1 - Agriculture zone to the A1t - Agriculture 1 with Agri-tourist Accommodation.

#### Defeated

Domenic Rampone, Jeff Ricketts, John Janmaat, Keith Duhaime, Peter Spencer and Yvonne Herbison - Opposed

#### ANECTODOTAL COMMENT

The Agricultural Advisory Committee did not support the application as it is contrary to the policies and bylaws of the City of Kelowna. Historically RV sites are not very compatible with agriculture and do not benefit agriculture. The Members are pleased with the enthusiasm by the Applicant and admire the Applicant's plans; however the plan is contrary to City bylaws. The Members feel the proposal would be more appealing if there was more agriculture on the site then envisioned as they believe that agriculture should come first and then agri-tourism.

The meeting recessed at 8:29 p.m. The meeting reconvened at 8:37 p.m.

#### **2.3 4275 Goodison Road, A15-0011 - Kristi Caldwell**

Committee Member Pete Spencer declared a conflict of interest as he has a business relationship with the property owners and left the meeting at 8:38 p.m.

#### Staff:

- Displayed a PowerPoint presentation summarizing the application before the Committee.

- The applicant is seeking approval from the Agricultural Land Commission for a “non-farm use” to permit wedding ceremonies and a distillery using primarily BC grains on the subject property.
- Staff notes that since the ALC Act Amendment of June 15<sup>th</sup>, 2015, distilleries are a designated ‘Farm Use’ if 50% of the product is grown on the farm. In this case, the flavourings, such as juniper and lavender, will be grown on the farm, but the bulk of the products will be grains produced from other BC Farms. As such, the applicants are applying for the Non-Farm Use to allow a distillery for these products.
- In addition, the ALC has advised us that ‘Wedding Ceremonies’ are not a Farm Use or Permitted Use in the ALR, and as such, require an approval from the ALC.
- The subject property is approximately 2.5 ha (6.09 acres) and is located along Goodison Road, in the Southeast Kelowna Sector of the City, west of June Springs Road, south of Mathews Road.
- The property has an existing dwelling and 5 various outbuildings. Several of the outbuildings house vintage farm equipment, which is used for agri-tourism tours. Also on the property are a shop and a barn.
- The property is located in the ALR, surrounded by ALR properties.
- The property is within the Resource Protection Area, surrounded by other properties in the Resource Protection Area.
- The wedding ceremonies are proposed for the front lawn of the residence (marked “A” in this plan). No new parking area is proposed as part of this application. Since taking over the farm in 2014, the applicants have started a market garden, floriculture, juniper and lavender plantings for the distillery, and a chicken and egg operation. Proposed additional farm activities for 2016 include acquiring three head of cattle and establishing honey production. The chickens are kept in a mobile chicken coop, which will share the pasture with the cattle.
- The property contains 60% Class 4AT and 40% Class 5TA Agriculture Capability
- Harland soils are moderately coarse textured glacial till, typically capped sandy eolian material.
- Paradise soils have developed a sandy veneer between 25 and 60 cm thick, overlying gravelly fluvialglacial deposits.
- Policy .7 Non-farm Uses. Support non-farm use applications on agricultural lands only where approved by the ALC and where the proposed uses:
  - o consistent with Zoning Bylaw and OCP
  - o provide significant benefits to agriculture
  - o can be accommodated using existing municipal infrastructure;
  - o minimize impacts on productive land
  - o will not preclude the future use of land for agriculture; and
  - o Will not impact adjacent farm operations.
- City Council is asking the Agricultural Advisory Committee for your recommendation for this application with respect to the City of Kelowna and ALC regulations and policies. Considerations should be given to agriculture capability, as well as the potential impacts to agriculture, both on this property and any potential impacts to surrounding agricultural parcels.

#### Kristi Caldwell, Applicant

- Displayed a PowerPoint presentation and provided an overview of the history of the property.
- The property was purchased by her parents in 1990. After her parents passed away, the property was left to her, her husband and her daughters.
- Provided an overview of the proposed farming operation and non-farm use.
- Provided an overview of the proposed agri-tourism activities for the site. Confirmed that only wedding ceremonies are proposed and that there will not be any evening receptions. The wedding ceremonies would take place on existing lawn behind the house not on any agriculture property.
- Committed to using 100% BC products in the distillery process.
- Held a neighbourhood open house and obtained unanimous support from the Goodison Road residents and some surrounding areas.

- BC Assessment has confirmed the retention of the farm status for the next year.

#### AAC/Applicant Discussion:

- Responded to questions from the Committee members.
- Primary products at the start will be vodka & gin.
- Advised that her parents owned a steel fabricating business and that the farm was not their primary income source.
- This is more than a hobby farm than a primary income farm.
- Trying to maximize the agricultural viability of the land and have the sole owners of the property since 2014.
- Would be willing to conduct soil testing to determine the agricultural viability of the lands.

#### AAC/Staff Discussion:

- A non-farm use covenant could be registered on title so that if the property is sold, the non-farm use would cease. This could be a condition of approval.

#### Moved By Yvonne Herbison/Seconded By Domenic Rampone

THAT the Agricultural Advisory Committee recommends that Council supports an application to the Agricultural Land Commission under Section 20(3) of the Agricultural Land Commission Act for a "non-farm use" within the Agricultural Land Reserve on the subject property at 4275 Goodison Road to have a distillery with primarily non-farm products and to host wedding ceremonies.

Carried  
Jeff Ricketts - Opposed.

#### ANECTODOTAL COMMENT:

The Agricultural Advisory Committee recommends that a covenant be registered on title to ensure that the distillery will be decommissioned and the wedding operations ceased once the property is sold (non-farm use should be tied to the ownership of the property) and the footprint of the existing buildings not be expanded.

Pete Spencer rejoined the meeting at 9:32 p.m.

#### **2.4 3240 Pooley Road, A15-0012 - Wyn Lewis**

##### Staff:

- Displayed a PowerPoint presentation summarizing the application before the Committee.
- The applicant is seeking approval from the Agricultural Land Commission for a "non-farm use" to permit build a parking lot for an existing winery and special events, and for a Frisbee Golf area on the property.
- The ALC has advised us that when agriculture is removed for a parking lot or other non-farm use, a Non-Farm Use approval is required from the ALC.
- In addition, The Discussion Paper on Agri-tourism and Farm Retail Sales from September 2015 indicates that commercial banquets, celebrations and any other commercial assembly activity require ALC approval.
- The subject property is approximately 4.6 ha (11.3 acres) and is located along Pooley Road, in the Southeast Kelowna Sector of the City, east of McCulloch Road.
- The property has an existing dwelling a wine tasting building. According to the application, the property currently has:
  - o 6 acres of grapes, 2 acres of apples, 2 acres of home, 1 acre for the winery , 0.5 Acre for access roads and parking.
- The property is within the Resource Protection Area, surrounded by other properties in the Resource Protection Area.
- The property is located in the ALR, surrounded by ALR properties.



- The request includes a parking lot area. The applicant has indicated that they experience overflow parking onto adjacent roadways, especially during special events such as Shakespeare plays. The plan, attached, also indicates a Frisbee Golf area.
- In 2012, the tasting room was located in an existing building. Vineyard occupied the southeast corner.
- In 2014 and 2015, the tasting room was expanded, and a lawn area located in the southeast corner of the property.
- The plan will reduce the size of the existing parking (now 20 car capacity) down to 10 handicapped parking spaces. They propose to replace 500 square metres of existing crush with asphalt, and plant grass on 400 square metres of the remaining existing parking.
- The new parking area will be 1500 square metres of crush. The existing hedges will remain. The parking is planned in an area where the existing vines have been damaged by frost, where no crop was grown in 2014 or 2015.
- The proposal includes interplanting a portion of the existing vineyard, by adding an extra row of vines between the current 12 ft spaced vines. This spacing of 6 foot vines has been done successfully on the north planting on the property. They estimate a 75% increase in yield with this approach.
- The majority of the subject property contains primarily Class 5A Agriculture Capability. Class 5A has limitations to crops based on aridity, due to either soil permeability or climate or both, and is considered improvable with the addition of irrigation.
- With improvements, this area can be improved to Class \*3 capability, which refers to specific capability with respect to grapes and tree fruits.
- Policy .7 Non-farm Uses. Support non-farm use applications on agricultural lands only where approved by the ALC and where the proposed uses:
  - o consistent with Zoning Bylaw and OCP
  - o provide significant benefits to agriculture
  - o can be accommodated using existing municipal infrastructure;
  - o minimize impacts on productive land
  - o will not preclude the future use of land for agriculture; and
  - o Will not impact adjacent farm operations.
- City Council is asking the Agricultural Advisory Committee for your recommendation for this application with respect to the City of Kelowna and ALC regulations and policies. Considerations should be given to agriculture capability, as well as the potential impacts to agriculture, both on this property and any potential impacts to surrounding agricultural parcels.

Moved By Domenic Rampone/Seconded By Jeff Ricketts

THAT the Agricultural Advisory Committee recommends that Council NOT support an application to the Agricultural Land Commission under Section 20(3) of the Agricultural Land Commission Act for a "non-farm use" within the Agricultural Land Reserve on the subject property at 3240 Pooley Road to build a parking lot for the Winery, special events at the Winery and for a proposed Frisbee golf area.

Carried

ANECOTODOTAL COMMENT:

The Agricultural Advisory Committee did not support the application as the proposed parking, special events and Frisbee golf do not benefit agriculture. Council should review the types of events that are occurring on agricultural lands and establish policy and guidelines to enforce infractions. Council should consider enforcement rather than doing and asking for forgiveness later. The Committee believes that there is no clear benefit to agriculture.

### 3. Minutes

Moved By Ed Schiller/Seconded By Domenic Rampone

THAT the Minutes of the October 8, 2015 Agricultural Advisory Committee meeting be adopted.

**Carried**

### 4. Referrals

There were no referrals.

### 5. Old Business

#### 5.1 Ministry of Agriculture - Discussion Paper on Agri-tourist Accommodation and Farm Retail Sales

Staff:

- Displayed a PowerPoint presentation summarizing the Minister's Bylaw Standards on Agri-tourist accommodation and farm retail sales.
- Provided an overview of the discussion paper.

AAC Discussion:

- The Ministry needs to develop a way to audit agri-tourist accommodation and create some sort of auditing process
- It was suggested that business license fee should be increased to cover the cost of enforcement.
- Experience has shown that the people that are operating the RV sites are not necessarily farming the land resulting in a further deterioration of agriculture.
- The Ministry needs to find ways to encourage young farmers.

Staff:

- Provided clarification with respect to ALC enforcement and City enforcement.

AAC Discussion:

- Noted that there are issues with respect to monitoring/enforcement on agricultural property and the Ministry needs to deal with the issue.
- The Ministry needs to ensure that agri-tourism is truly supplemental to farming, specifically RV parks, and should tie agri-tourism activity directly to farming.
- Agri-tourism should be tourism that involves agriculture.
- The Ministry needs to find ways to ensure that the resources are adequate to enforce regulations.
- Suggested a business license fee or some sort of tax that would be allocated to enforcement. The ALC should maybe be charging a fee for non-farm uses as well as establish an audit process.

### 6. New Business

#### 6.1 City of Kelowna Agriculture Plan

Staff:

- Advised that the Policy & Planning Department is working on a terms of reference for a new Agricultural Plan and is considering applying for funding. If the City gets the funding, the plan will move forward.

## **6.2 Agriculture Adaptation Workshop - Agriculture and Climate Change**

Staff:

- Provided information on the upcoming workshop.

### **7. Next Meeting**

The next Committee meeting has been scheduled for December 10, 2015.

### **8. Termination of Meeting**

The Chair declared the meeting terminated at 11:02 p.m.

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John Janmaat, Chair

/acm/slh

DRAFT