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# CITY OF KELOWNA

## MEMORANDUM

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**Date:** January 6, 2003  
**File No.:** SRA98-004

**To:** City Manager

**From:** Planning & Development Services Department

**Subject:** APPLICATION NO.: SRA98-004    OWNER: Apex Sand and Gravel  
(div. Apex Lands & Orchards Ltd.)

AT: 4775 Stewart Road West    APPLICANT: Same As Above

**PURPOSE:** To amend Soil Removal Permit No. SRA98-004 to remove soil from land within the Agricultural Land Reserve pursuant to Section 2 of the Soil Conservation Act.

**EXISTING ZONE:** A1 – Agricultural 1

**REPORT PREPARED BY:** Josephine Duquette

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**SEE ATTACHED FACT SHEET FOR COMPLETE APPLICATION DETAILS**

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### 1.0 RECOMMENDATION

THAT the Soil Removal Permit No. SRA98-004; Lot 1, Sec. 29, Twp. 29, SDYD, Plan KAP52409, located on 4775 Stewart Road West, Kelowna, BC, for removal of soil within the Agricultural Land Reserve pursuant to Section 2 of the Soil Conservation Act **not** be amended to:

Change the hours of operation from the approved 7:00 a.m. to 5:00 p.m. daily except Sundays or statutory holidays, to 7:00 a.m. to 10:00 p.m. daily.

### 2.0 SUMMARY

The applicant is requesting permission to amend the hours of operation for an existing Soil Removal Permit No. SRA98-004 (refer to attached letter). The proposed hours of operation would be between 7:00 am and 10:00 p.m. on any day and would correspond with Noise Control Bylaw No. 6647 – 90 regulations. The previously approved hours of operation were restricted to between 7:00 am to 5:00 p.m., with no operation on Sundays or statutory holidays. This coincided with the Ministry of Mines permit they issued to Apex Lands & Orchards Ltd. (refer to attached letter).

### 3.0 BACKGROUND

The above noted application was considered by Municipal Council at a Regular Meeting held on Monday October 19, 1998, when the following resolution was adopted:

THAT the Soil Removal Permit No. SRA98-004; Lot 1, Sec. 29, Twp. 29, SDYD, Plan KAP52409, located on 4775 Stewart Road West, Kelowna, BC, for removal of soil within

the Agricultural Land Reserve pursuant to Section 2 of the Soil Conservation Act be supported by Municipal Council subject to the following conditions:

1. The applicant be required to post a performance bond with the Agricultural Land Commission to ensure that the site is eventually reclaimed to an agricultural standard complete with the provision of a suitable layer of topsoil;
2. The applicant be required to retain an agrologist to oversee the reclamation of the site once the extraction has been completed;
3. The applicant be required to complete the extraction and reclamation operation within five years of the initial permit date;
4. ***The hours of operation be restricted to between 7 am to 5 p.m., with no operation on Sundays or statutory holidays;***
5. Prior to the issuance of a permit for soil removal, the applicant be required to receive approval for the City of Kelowna for a buffering plan on the subject property;

AND THAT Municipal Council forward the subject application to the Agricultural Land Commission.

#### 4.0 PLANNING COMMENTS

The Planning & Development Services Department does have concerns with respect to the proposed amendment to Soil Removal Permit No. SRA98-004. Staff sent a letter to the adjacent property owners for their comments and the majority of the adjacent property owners objected to this proposed amendment to the Soil Removal Permit (refer to attached correspondence). They also believe that the existing permit conditions are not being adhered to and have submitted complaints to our Bylaw Enforcement Department for their review.

Furthermore, the Ministry of Energy and Mines have advised that, as part of the Mines Act Permit, restrictions have been placed to ensure that the operator will only work during the hours of 7:00 a.m. to 5:00 p.m. Monday through Saturday with no work on Sundays or Statutory Holidays.

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R. G. Shaughnessy  
Subdivision Approving Officer

Approved for inclusion

R.L. (Ron) Mattiussi, ACP, MCIP  
Director of Planning & Development Services

RGS/JD/jd

Attachments

## **FACT SHEET**

1. **APPLICATION NO.:** SRA98-004
2. **APPLICATION TYPE:** Application to amend Soil Removal Permit No. SRA98-004 to remove soil from land within the Agricultural Land Reserve pursuant to Section 2 of the Soil Conservation Act.
3. **OWNER/APPLICANT/CONTACT PERSON:** Mark Turton, Apex Sand & Gravel, a div. of Apex Lands & Orchards Ltd.  
Box 28204 RPO E. Kelowna  
Kelowna, BC V1W 4A6  
763-7797 / 763-3736
  - . **ADDRESS**
  - . **CITY/ POSTAL CODE**
  - . **TELEPHONE/FAX NO.:**
5. **APPLICATION PROGRESS:**  
Date of Application: December 6, 2002  
Staff Report to Council: January 6, 2003
6. **LEGAL DESCRIPTION:** Lot 1, Sec. 29, Twp. 29, SDYD, Plan KAP52409
7. **SITE LOCATION:** East side of Stewart Road West
8. **CIVIC ADDRESS:** 4775 Stewart Road West
9. **AREA OF SUBJECT PROPERTY:** 12.20 ha
10. **EXISTING ZONE CATEGORY:** A1 – Agriculture 1
11. **PURPOSE OF THE APPLICATION:** To amend Soil Removal Permit No. SRA98-004 to remove soil from land within the Agricultural Land Reserve pursuant to Section 2 of the Soil Conservation Act.
12. **DEVELOPMENT PERMIT MAP 6.2 IMPLICATIONS:** Not applicable