



## COUNCIL REPORT

To: Paul Gipps, CAO

Date: October 4, 2022

From: Holden Blue, Planner II

File No: A 22-03

Subject: **A 22-03; Agricultural Fill Application; 3853 Brown Road**

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### RECOMMENDATION

**THAT** Council support the Non-Farm Use Application for the placement of fill in the Agricultural Land Reserve (File: A 22-03) for the property at 3853 Brown Road as per the attached plans; and

**THAT** Council direct staff to forward the application to the Agricultural Land Commission for consideration.

### STRATEGIC AREA(S) OF FOCUS

**Economic Growth and Prosperity** – We will work with our partners on the Westside and throughout the region to advocate for and support efforts aimed at helping West Kelowna businesses prosper. With a focus on the future, we will advance opportunities to expand our economy, increase employment, and develop the community in ways that contribute towards prosperity for all.

### BACKGROUND

The subject property is located in the Westbank Centre neighbourhood at 3853 Brown Road and is currently used for grape growing as part of a vineyard. The subject property is zoned A1 and situated in the Agricultural Land Reserve. The applicant has submitted a Non-Farm Use Application for placement of fill which requires review from the local government to proceed to the Agricultural Land Commission (ALC) for consideration.

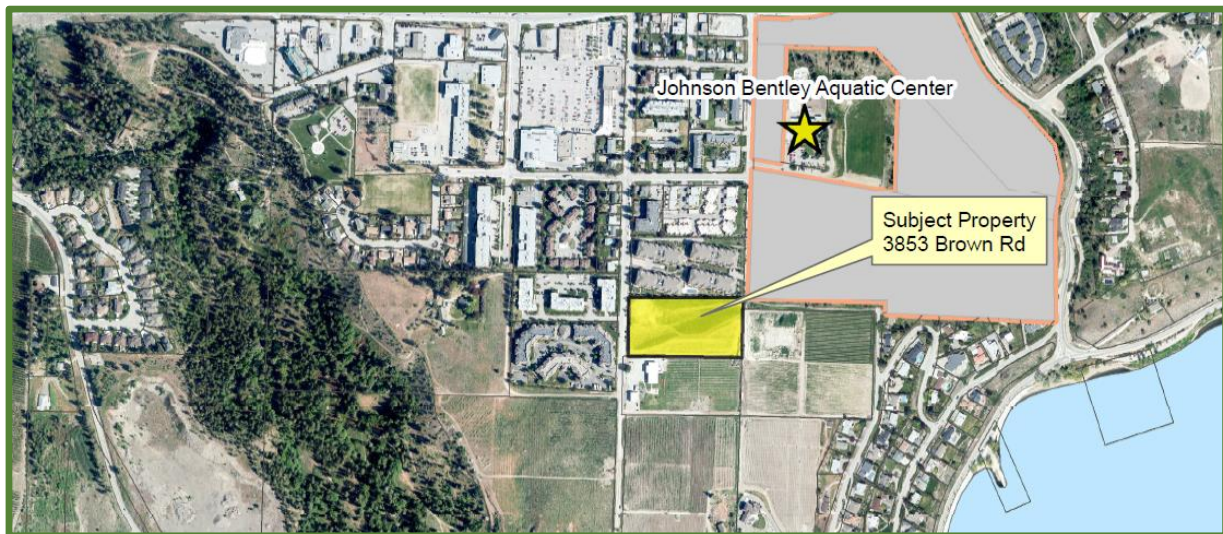
| PROPERTY DETAILS |  |              |            |
|------------------|--|--------------|------------|
| <b>Address</b>   | 3853 Brown Rd (PLAN KAP1568 LOT 2 DISTRICT LOT 807 OSOYOOS DIV OF YALE DISTRICT) |              |            |
| <b>PID</b>       | 011-295-147  |              |            |
| <b>Folio</b>     | 36413387.000   |              |            |
| <b>Lot Size</b>  | 19465.4 m <sup>2</sup>   |              |            |
| <b>Owner</b>     | Haakon Investments Ltd.  | <b>Agent</b> | David Gill |

|                                  |  |                        |                        |
|----------------------------------|--|------------------------|------------------------|
| <b>Current Zoning</b>            | A1 – Agricultural Zone                             | <b>Proposed Zoning</b> | A1 – Agricultural Zone |
| <b>Current OCP</b>               | Ag - Agricultural                                  | <b>Proposed OCP</b>    | Ag - Agricultural      |
| <b>Current Use</b>               | Agriculture  | <b>Proposed Use</b>    | Agriculture            |
| <b>Development Permit Areas</b>  | Aquatic, Hillside, Sensitive Terrestrial Ecosystem |                        |                        |
| <b>Agricultural Land Reserve</b> | Yes  |                        |                        |

#### ADJACENT ZONING & LAND USES

|              |   |  |
|--------------|---|--|
| <b>North</b> | ^ | R5 – Westbank Centre Multiple Residential Zone |
| <b>East</b>  | > | A1 – Agricultural Zone                         |
| <b>West</b>  | < | R5 – Westbank Centre Multiple Residential Zone |
| <b>South</b> | v | A1 – Agricultural Zone                         |

#### NEIGHBOURHOOD MAP



#### PROPERTY MAP



## Legislative Requirements

Local Governments that receive a Soil or Fill Use Application under Section 34.1 of the *Agricultural Land Commission Act* must review the application and forward it to the Commission with comments and recommendations.

## **DISCUSSION**

### Proposal

The applicant has submitted a retroactive application to deposit fill on the subject property (Figure 1) as the work was completed as of June 2022. This application was created following a complaint to the ALC regarding unauthorized fill placement on the property. According to the submitted application, the applicant has deposited approximately 400 m<sup>3</sup> of clean blast rock on 1,500 m<sup>2</sup> of the 19,500 m<sup>2</sup> subject property to raise the height of the land by up to 1 meter, as illustrated by the green dashed line on the Site Plan and Cross Section (Attachment 1, Figure 2).

Upon review of the application, it was identified the area of all fill placed (including road crush) covers roughly 3,500m<sup>2</sup> of the property. The area outlined in the black dashed line (Figure 2) illustrates the location of additional ¾ inch road crush (100mm maximum thickness) that was placed on the land, contributing to a larger area of placement than what was outlined in the application.



**Figure 1:** Fill placement on the subject property.

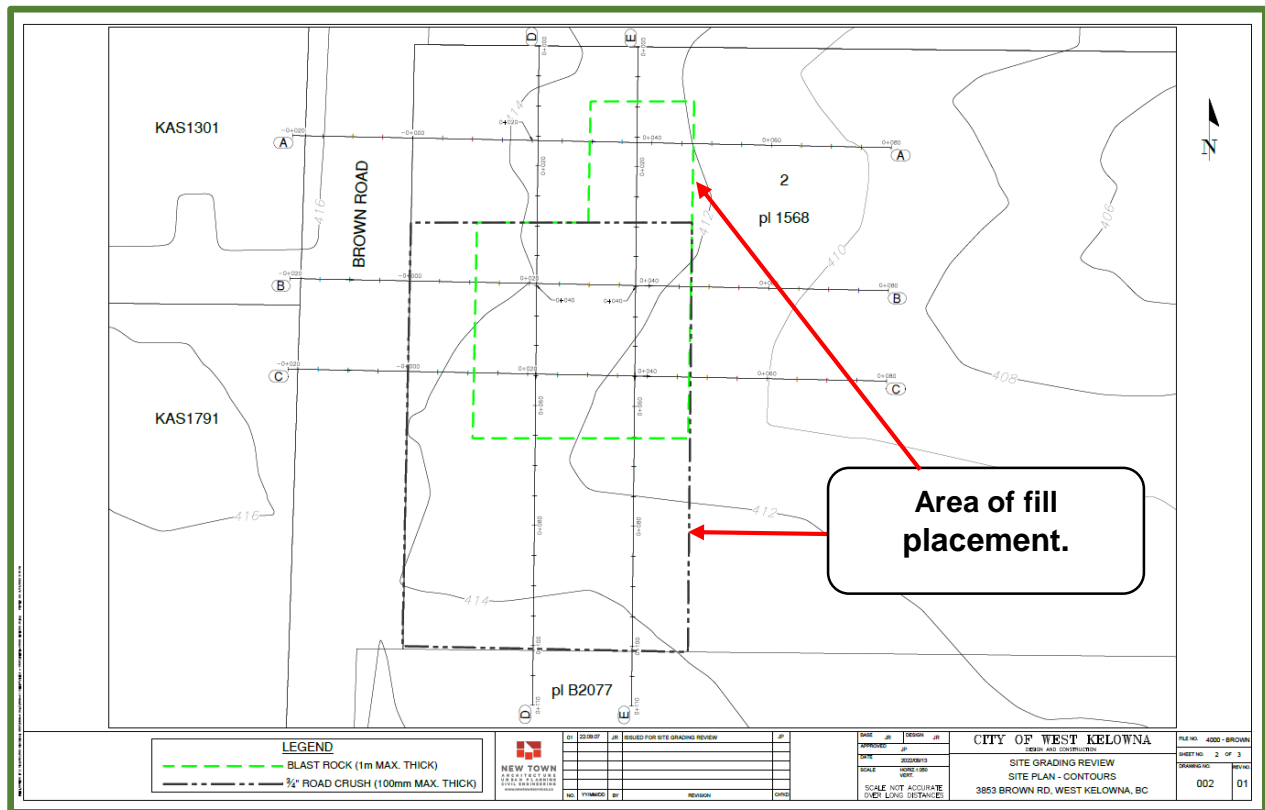
### Applicant Rationale

The applicant has stated in their application to the Agricultural Land Commission that this fill deposition will create a flat area for fruit bin storage and farm machinery parking as needed. Figure 2 highlights the larger 1m in depth blast rock fill areas in green with the road crush area in black.

The applicant has also stated that the rest of the parcel will continue to be used for grape growing, with plans to plant another 2400 grape vines on the subject property in addition to the 1200 plants that were planted in May of 2021. The fill placement will support existing



grape growing activities on the property and Truck 59 Ciderhouse located on the neighbouring parcel at 3887 Brown Road.



**Figure 2:** Fill placement area on the subject property.

## POLICY AND BYLAW REVIEW

### Zoning Bylaw No. 0265

The subject property is zoned A1 – Agricultural. It is understood that the fill placement will support future grape vineyard operations by providing an area for fruit bin storage and farm machinery as necessary. General agriculture is a permitted use within the A1 zone.

### Official Community Plan No. 0100

The subject property is designated as Agricultural. Section 3.38 of the Official Community Plan (OCP) details guiding principles for agricultural land, including prioritizing the protection of agricultural capacity, production, and access to agricultural products within the City.

## TECHNICAL AND REFERRAL REVIEW

The application was sent out for referral to various agencies and departments. The below comments were provided.

## Ministry of Agriculture

The subject property was purchased in September 2020. In May 2021, approximately 0.4 hectares were planted with grapes, and another 1.0 hectare is scheduled to be planted in 2022. Grapes generally take 3-4 years of maturing to be harvestable for wine production. Soil types in Gellatly and Glenmore dominate the soil profile of the subject property and are both suited for many agricultural crops, including grapes. Despite the fact a vineyard consultant should have been aware of requirements for fill placement and that the project already completed is relatively small in nature, Ministry staff recommend that a brief Agrologist's report be completed to determine any potential impacts arising from the fill placement activity. Staff have not required an agrologists report. Should it be deemed necessary by the ALC or Council, the applicant would be required to provide a report.

## Agricultural Advisory Committee (AAC)

The AAC considered the application at their July 6, 2022, meeting. The committee discussed a number of items, including the suitability of the parcel for agricultural use, the challenge of retroactive applications as they do not want to create a precedent and that flat areas for parking and storage are required to promote agriculture. The AAC unanimously motioned to support the file, subject to the applicant providing a detailed site plan and cross-section indicating fill placement to scale (as per attached).

## **CONCLUSION**

Staff recommend that Council support the fill application and forward it to the Agricultural Land Commission for consideration. The fill deposited on the property supports existing and future agricultural activities, there are no adverse impacts to neighbouring properties and the works align with the objectives of the OCP and Zoning Bylaw.

## **Alternate Recommendations:**

1. **THAT** Council postpone consideration of A 22-03 and direct staff to request the preparation of an Agrologist's report to determine any potential impacts arising from the fill placement activity and/or confirm the exact area impacted by fill placement.

Should Council choose this motion, staff will reschedule this application for Council consideration once the requested information is available.

2. **THAT** Council direct staff to forward the application to the Agricultural Land Commission for formal consideration.

Should Council choose this motion, a local government report will be sent to the ALC advising that council does not wish to support or deny the application. By forwarding the application, Council is deferring to the ALC for formal consideration.

3. **THAT** Council not support the Non-Farm Use Application for the placement of 400 m<sup>3</sup> of fill in the Agricultural Land Reserve (File: A 22-03) for the property at 3853 Brown Road; and

**THAT** Council direct staff close the file.

Should Council choose this motion, the file will be closed and the ALC will be advised that the application did not receive a motion to proceed. The applicant would need to wait six months before submitting a revised application.

#### **REVIEWED BY**

Chris Oliver, Planning Supervisor

Brent Magnan, Director of Development Approvals

Corinne Boback, Legislative Services Manager, Corporate Officer

#### **APPROVED FOR THE AGENDA BY**

Paul Gipps, CAO

Powerpoint: Yes ☒ No ☐

#### **Attachments:**

1. Site Plan and Cross Section of Proposed Fill