

COMMITTEE REPORT



Date: October 10th 2019

RIM No. 1210-21

To: Agricultural Advisory Committee (AAC)

From: Community Planning Department (AK)

Application: Non-Farm Use **Owner:** Ria and Trent Kitsch

Address: 2830 East Kelowna **Applicant:** Ria and Trent Kitsch

Subject: Non-Farm Use Application A19-0016 – Winery and Covenant

1.0 Purpose

To consider an appeal to the ALC to build an alcohol production facility (Winery) on a parcel that is currently in the process of converting to a vineyard and to remove a 'no-disturb' covenant on the subject land.

2.0 Proposal

2.1 Background

The subject site is a 20 acre (8.1ha) agricultural parcel. There is an existing single detached house and an existing dwelling being used for farm help on the property. Previously, the parcel was planted to cherries, currently approximately 4.6ha (11.4acres) of the property are in the process of being converted to grapes. The proposal is to demolish the existing dwelling for farm help and build a purpose built winery building. The amount of grapes currently planted on the subject parcel do not meet the ALC threshold regulations to allow for a winery to be constructed on the lot therefore a non-farm use application has been submitted for consideration.

The parcel is encumbered by a no-disturb covenant area that was required to be registered on the title of the lot as a condition of a previous ALR exclusion application. Part of this non-farm use application is to remove or amend this covenant to allow the property owners to potentially farm or place agricultural structures within this covenant area.

The ALR Use, Subdivision and Procedure Regulation permits alcohol production facilities, such as wineries, as 'farm use' provided they meet the prescribed thresholds and are of appropriate scale and scope as per the intent of ALR regulations. An alcohol production facility does not qualify as a designated farm use if located on a parcel that is not actively producing the required Primary Farm Product. Primary Farm Product (PFP) means the farm product that is the primary ingredient used in a fermentation process to make an alcohol product, generally grapes, grain or honey.

There must be a robust relationship between the primary farm product (PFP) and the farm in order for the alcohol production facility and its ancillary uses to qualify as a designated farm use. At least 50% of the PFP must be grown on the facility parcel, or a minimum of 2 ha of the PFP must be in production on the facility parcel.

2.2 Project Description

The proposed winery is approximately 950sqm (10,200sqft) this includes a crush pad, barrel storage, and tasting area. A non-farm use permit is required as the winery does not meet the ALC threshold for having 50% or a minimum of 2ha of grapes in production on the subject lot.

As noted in the attached ALC application the property owners are in the process of converting the subject site to approximately 14 acres of grapes. The applicants are already operating a winery and own vineyards near the subject site. Specifically, the applicants own two adjacent parcels totaling approximately 24 acres with 12.7 acres planted with grapes.

Regarding the proposed covenant removal. The covenant was placed on the property as a condition to allow 1.2ha of land to be excluded from the ALR in 1993. Specifically, the approval was subject to the following conditions:

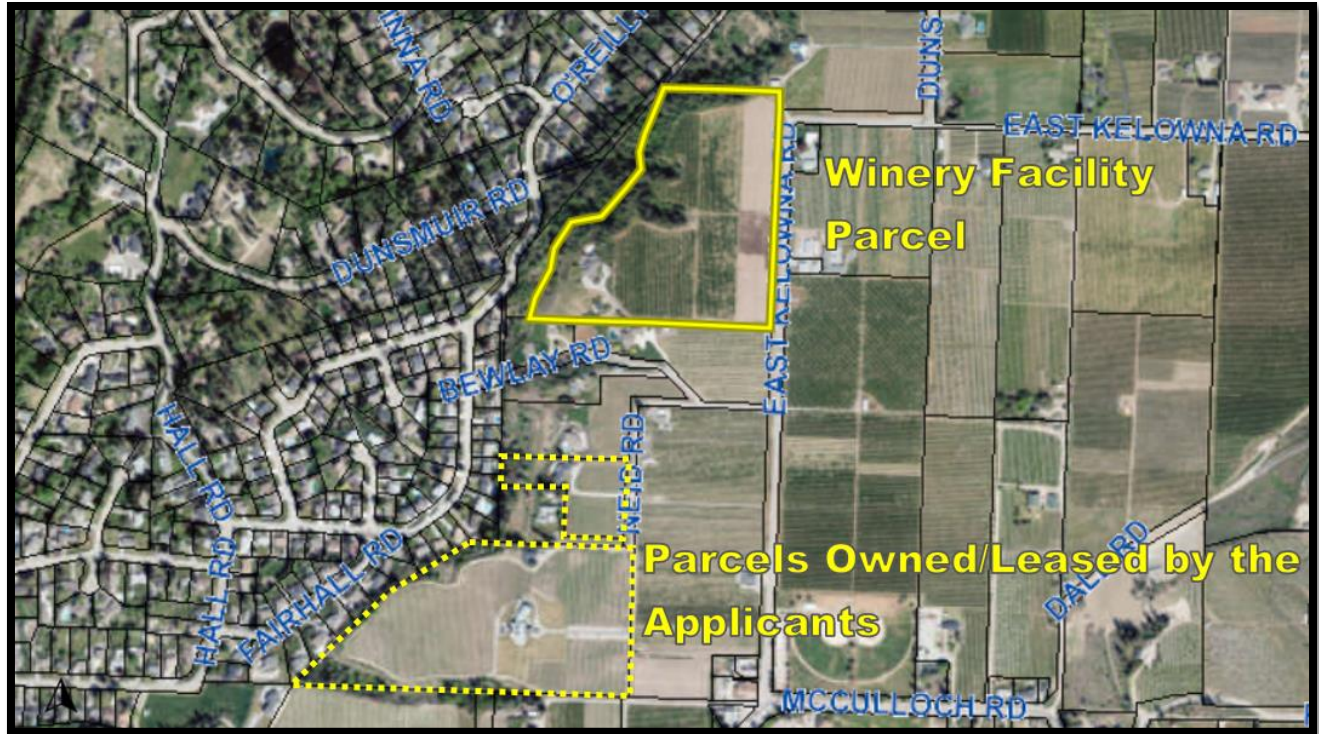
1. The retention of the escarpment above the 410 meter contour line as a natural vegetative buffer.
2. The registration of a covenant over this area preventing the disturbance of vegetation or the construction of structures in this area.
3. The construction of a chain link fence on the downslope side of the buffer.

The main reason for the request to remove the covenant is to increase agricultural activity within the covenant area. The applicant state that a portion of the covenant area may be suitable for a cellar for the winery (barrel and case storage) as the area has a void which in the future would be subterranean providing natural insulation to get the cellar at 12 degrees. The area above the potential cellar could then go into production of vines. Concern has also been raised from the applicants that: Shade created by the tall trees is negatively effecting the sun exposure and relating many positive effects for the vineyard – moisture, frost, ripening. Root System, windfall, needles, all raise the PH of the soil. Fruit, vine, and grape loss to pests and animals is also an issue due to the fact that the perimeter fence is in need of repair.

The covenant area includes land that is 30% slope and this area is part of the City's 'High Hazard' and 'Natural Environmental' Development Permit areas. This means a geotechnical report and an environmental assessment would be required prior to any the development to confirm what is proposed is safe and not disturbing a highly environmentally sensitive area.

Site Context

The property is designated REP – Resource Protection Area in the Official Community Plan and zoned A1 – Agriculture 1. The property is located within the Agricultural Land Reserve.



2.3 Neighborhood Context

The property is within the Southeast Kelowna City Sector. The properties to the North, East, and South are predominantly designated REP – Resource Protection Area in the Official Community Plan, zoned A1 – Agriculture 1 and located within the Agricultural Land Reserve. The area to the West of the site is designated Single/Two Unit Residential in the Official Community Plan and Zoned RR3 -Rural Residential 3 and is being used for single detached housing.

3.0 Community Planning

Section 15 of the OCP includes policy to locate wineries near the road entrance or in a location that minimizes road construction to reduce the footprint and extent of services through the lot with the goal of reducing impact on the agriculture potential. The proposed winery is not located near the road, but is in an area meant to minimize impact to productive agricultural land. Specifically the building is near the existing single detached house, at a corner of the property, where an existing dwelling (to be demolished) is located, and utilizes the existing driveway/services that run along the south property line.

The Zoning Bylaw allows for alcohol production facilities such as wineries provided they meet minimum setback requirements and are the lesser of 9.5m or 2 ½ storeys.

The ALR Use, Subdivision and Procedure Regulation states:

(2.1) A winery or cidery, and ancillary uses, are designated as farm uses for the purposes of the Act if

(a) at least 50% of the farm product used to make the wine or cider produced each year is grown on the farm on which the winery or cidery is located, or

(b) the farm on which the winery or cidery is located is more than 2 ha in area and at least 50% of the farm product used to make the wine or cider produced each year is grown

(i) on the farm, or

(ii) both on the farm and on another farm located in British Columbia that provides that farm product to the winery or cidery under a contract having a term of at least 3 years.

Report prepared by: Alex Kondor, Planner Specialist

Reviewed/Approved for Inclusion : Dean Strachan, Community Planning Supervisor

Attachments:

Attachment A – ALC Application

Attachment B – Development Plans

Attachment C – ALR Exclusion/Covenant Sketch Plan (A93-108)