

# REPORT TO COUNCIL



**Date:** December 13, 2016

**RIM No.** 0930-50

**To:** City Manager

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

**Application:** LL16-0001 **Owner:** Wyn Lewis  
Marion Lewis

**Address:** 3240 Pooley Road **Applicant:** Okanagan Villa Vineyards  
and Events Corp.

**Subject:** Winery Lounge Endorsement Application

**Existing OCP Designation:** Resource Protection Area

**Existing Zone:** A1 -Agriculture 1

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## 1.0 Recommendation

THAT Council directs staff to forward the following recommendation to the Provincial Liquor Control and Licensing Branch (LCLB):

In accordance with Section 10 of the Liquor Control and Licensing Regulation and Council Policy 359, BE IT RESOLVED THAT:

1. Council recommends support for the application from Okanagan Villa Vineyards and Events Corp. at 3240 Pooley Road, legally described as *Lot 2, Section 15, Township 26, ODYD, Plan KAP3379, DL 41*, for a Winery Lounge Endorsement with hours of operation from 11:00 am to 10:00pm, seven days a week subject to the following conditions:
  - a. The licenced area supported be restricted to the "general seating area" as outlined on the floor plan submitted numbered 3240 Pooley Road (March 11, 2016) with permanent signs.
  - b. The maximum occupant load is 30 inside and 40 outside during licensing hours.
  - c. Minors are permitted at the manufacturing site. Minors are also permitted in the sampling room, lounge and special event area, when accompanied by a parent or guardian. No liquor will be permitted outside of the permitted licenced area within the floor plan.
2. The Council's comments on the prescribed considerations are as follows:
  - (a) The location of the establishment.

The location of the establishment is within the current footprint of the wine tasting license area, in Southeast Kelowna.

- (b) The proximity of the manufacturer lounge to other recreational facilities and public buildings.

The proposed lounge is 930 metres from a City of Kelowna ball field area and 1200 metres from a Community Hall. It is 1200 metres from the next liquor primary and liquor retail sales license.

- (c) The person capacity and hours of liquor service of the lounge.

The occupant load was calculated by an on-site visit from our Building and Permitting Department. The capacity was determined to be 30 persons inside and 40 persons outside on the patio. This does not include any calculation of the current picnic endorsement on the lawn area adjacent the patio. The hours of liquor service proposed is 11 AM to 10 PM, seven days/week.

- (d) The impact for noise in the immediate vicinity of the lounge.

The potential for noise may increase. However, there is currently music on the weekends on the picnic endorsement area. Noise with the upgrade of the lounge endorsement is not expected to be significantly increased due to the lounge license endorsement over what it is currently.

- (e) The impact on the community if the application is approved.

The impact on the community is not expected to significantly increase from the existing wine tasting area.

## **2.0 Purpose**

An application for a winery lounge endorsement in an A1 - Agriculture 1 with an occupant load of 30 persons inside the facility and 40 persons on the patio.

## **3.0 Community Planning**

Community Planning supports this application for a winery lounge endorsement at this establishment because it meets the guidelines of Council Policy #359 "Liquor Licensing Policy and Procedures".

The small capacity of the proposed lounge area is not sited next to any other liquor primary establishments, and the winery lounge endorsement does not add to the existing footprint of the facility. The current facility has been in place since 2010. The current tasting facility has been in place since 2010.

## **4.0 Proposal**

### **4.1 Background**

Okanaganvilla Estate Winery was established in 2008, with 6 acres of grapes planted, and the Vibrant Vine Tasting Room was opened in 2010.

The development of the property to date has included:

- 2009 - Building Permit issued to turn existing farm house (main floor only) to a wine shop;
- 2011 - Received a 'Winery Special Event Endorsement', for the Courtyard of their house for theatre events; and
- Currently - application to extend their liquor license to the balcony of their tasting room, and to upgrade to a lounge license for a winery lounge endorsement.

In 2011, Council supported a 'Winery Special Event Endorsement' liquor license, which included hosting theatre events in the courtyard of their villa, including Shakespeare plays and the Phantom of the Opera, for up to ten times a year in the summer. Wine from the vineyard is sold during the intermission.

Staff notes that this application is for an expansion of the wine tasting liquor license for the wine shop to upgrade to a lounge license. This will enable the winery to sell wine by the glass, and up to 20% liquor other than their own products.

#### 4.2 Project Description

The application is to upgrade a current wine tasting license to a wine lounge endorsement license. The wine lounge endorsement area will apply to the area inside and the patio outside the current wine tasting building. The capacity, as determined by the City of Kelowna Building and Permitting Department, is 30 persons inside and 40 persons outside on the patio. (See attached Plan). It should have my contact information (below) and your contact information also, in case there are questions.

The Winery Lounge Endorsement Area, if approved, will allow the licensed winery to sell and serve any kind of liquor for consumption on site in the approved lounge area, provided the cost of liquor products other than those manufactured on site does not exceed 20% of the total cost of products for sale in the lounge area in any given quarter. Food and non-alcoholic beverages must be available at reasonable prices to customers.

See the applicant's Letter of Intent, attached. Note that the original application was for 160 persons, but was reduced to 30 person inside and 40 persons during the process, based on the review from the Building and Permitting Department.

#### 4.3 Site Context

The subject property is located in the Southeast Kelowna Sector of the City and is within the Agricultural Land Reserve. The Future Land Use of the property is Resource Protection Area (REP). It is zoned A1 - Agriculture 1 (Maps 1 - 4, below) and is outside of the Permanent Growth Boundary.

The property currently has 6 acres of grapes, 2 acres of apples 2 acres for the Farm Residential Footprint, 1 acre for the winery, and 0.5 acres of roads and parking. (See Applicant's Package, attached). The grades are fairly level near Pooley Road, but the property slopes steeply at the the north.

Parcel Summary - 3240 Pooley Road:

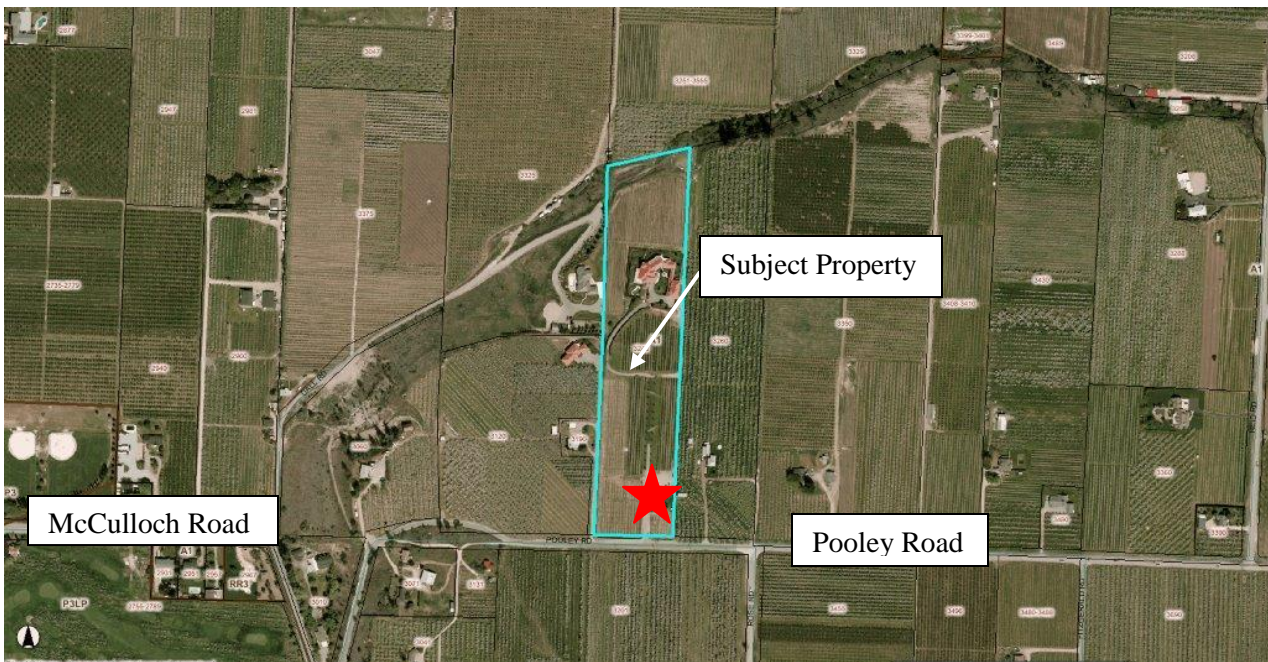
Parcel Size: 4.6 ha (11.3 acres)  
Elevation: 445 to 472 metres above sea level (masl)

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

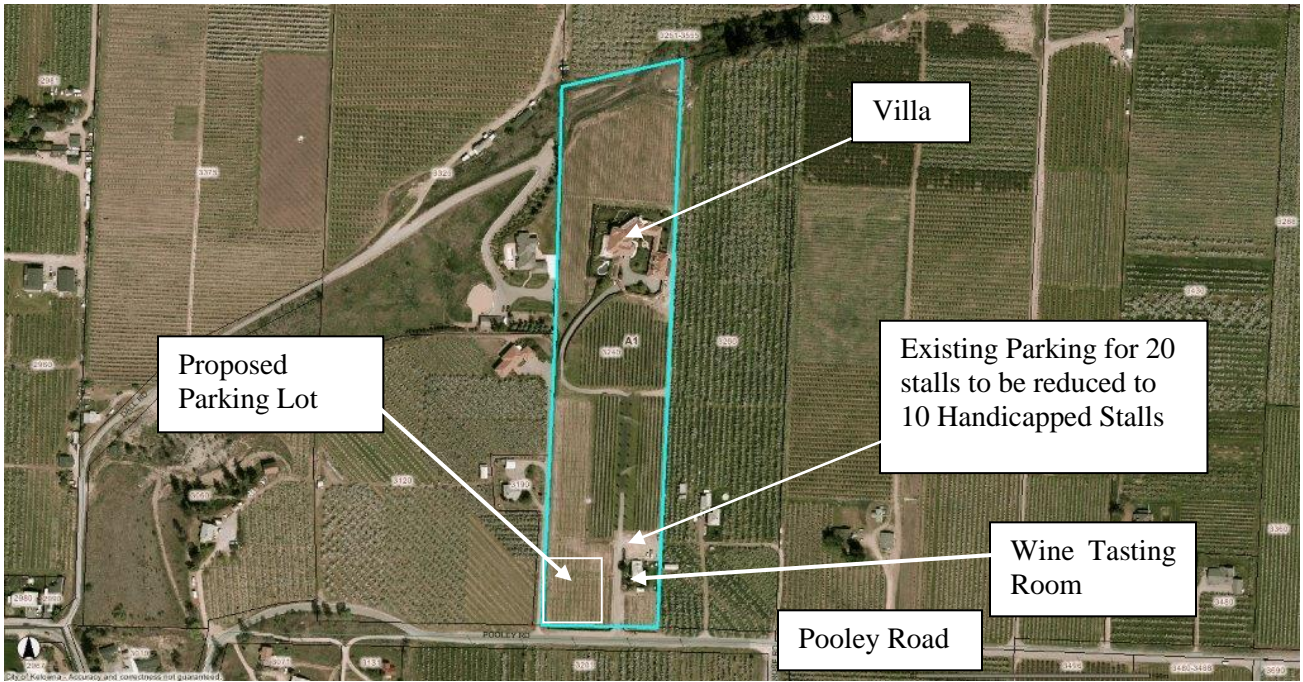
**Table 1: Zoning and Land Use of Adjacent Property**

Direction	Zoning	ALR	Land Use
North	A1 - Agriculture 1	Yes	Agriculture
South	A1 - Agriculture 1	Yes	Agriculture
East	A1 - Agriculture 1	Yes	Agriculture
West	A1 - Agriculture 1	Yes	Agriculture

**Map 1: Subject Property - 3240 Pooley Road**



Map 2 - Subject Property



Map 3 - Agricultural Land Reserve



### Map 4 - Wine Tasting Facility

Wine Tasting Lounge License – Current Application –  
less than 125 m<sup>2</sup> inside and outside



Proposed  
Parking  
Lot -  
Gravel

Stage for Live  
Music – every  
Saturday in the  
summer

Picnic Area  
Endorsement  
Area – wine  
bottle sales –  
no table  
service

Proposed -  
Reduce  
parking area  
to 10  
Handicapped  
Stalls

## 5.0 Public Consultation

At the time of writing this report, no public consultation had been undertaken for this application. Development signage, 10 days prior to the Council date, as well as notification to adjacent property owners by the Clerks Department, is required as part of the application process.

## 6.0 Current Development Policies

### 6.1 Kelowna Official Community Plan (OCP)

#### Agricultural Land Use Policies

**Agri-tourism, Wineries, Cideries, Retail Sales.**<sup>1</sup> Support agritourism uses that can be proven to be in aid of and directly associated with established farm operations. Permit wineries, cideries and farm retail sales (inside and outside the ALR) only where consistent with existing ALC policies and regulations.

### 6.2 Council Policy #359 - Liquor Licensing Policy & Procedures

The following sections of Policy #359 are applicable to this application:

- Small establishments (with person capacity less than 100 persons):
  - Should not be located beside another liquor primary establishment.

Other policies:

- New patios associated with liquor establishments should be located and designed to limit potential impacts on surrounding property owners.

### 6.3 Agricultural Land Commission (ALC)

#### Wineries and Cideries in the ALR - Policy #3<sup>2</sup>

*A food and beverage service lounge is allowed up to a maximum area of 125m<sup>2</sup> indoors and 125m<sup>2</sup> outdoors. The outdoor area of 125m<sup>2</sup> includes patio space but does not include areas set aside for picnicking. Picnicking areas are also allowed as an ancillary use where a winery/cidery has a picnicking endorsement to its license. The 125m<sup>2</sup> floor space or outdoor area is roughly equivalent to a seating capacity of 65 persons in the lounge or on the patio. Thus the maximum capacity is potentially a total of 130 persons, where both indoor and outdoor seating are provided. The threshold area specified in the Regulation for the lounge does not include the tasting room, washrooms or kitchen facilities. For the purposes of these comments, a food and beverage service lounge is an establishment serving food and liquor that has a “winery lounge endorsement” to the winery license issued under the Liquor Control and Licensing Act. An application and approval of the Commission is required for a restaurant with a food primary license.*

*The sale of a limited amount of alcoholic beverages other than those produced by the winery or cidery are allowed as an ancillary use if they are sold as a single serving in the lounge and are consumed immediately.*

*Tasting or the free offering or sale of product samples is considered part of the tour activity and is part of the designated farm use. Special events held at wineries in their endorsed special event area or under a special event license may qualify as designated farm uses under Section 2*

<sup>1</sup> City of Kelowna Official Community Plan, Policy 5.33.5 (Development Process Chapter).

<sup>2</sup> ALC, 2016. Activities Designated as Farm Use: Wineries and Cideries in the ALR.

[http://www.alc.gov.bc.ca/assets/alc/assets/legislation-and-regulation/policies/alc - policy 3 - wineries and cideries in the final.pdf](http://www.alc.gov.bc.ca/assets/alc/assets/legislation-and-regulation/policies/alc_-_policy_3_-_wineries_and_cideries_in_the_final.pdf)

(2) (e) of the Regulation that permits certain temporary agri-tourism activities on land assessed as “farm” class.

## 7.0 Technical Comments

### 7.1 Development Engineering

The Development Engineering Department had the comments noted below.

- a) Provide Adequate off street parking for the proposed events.
- b) A second access to egress from the parking area is acceptable provided that it would be available for events only. The second egress location must be gated during non-events.

### 7.2 Building & Permitting

The occupant load was determined by Building & Permitting. See attached allowable area.

### 7.3 Fire Department

The Fire Department has no issues with a liquor license. Should there be more than 150 people in a licensed beverage establishment, a fire alarm shall be installed. Services has no concerns.

## 8.0 Application Chronology

Application Received:	January 8, 2016
Application - Site Plan Area Resubmission	February 29, 2016
Occupant Load Determination - Building & Permitting	March 11, 2016
Application put on hold by Applicant - Consider Redesign	June 29, 2016
Application re-initiated by Applicant	October 17, 2016

### Report prepared by:

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Melanie Steppuhn, Land Use Planner

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

**Reviewed by  
Approved for Inclusion:** Ryan Smith, Community Planning Department Manager

**Approved for Inclusion:** Doug Gilchrist, Divisional Director, Community Planning & Real Estate

### Attachments:

Site Plan - Occupancy Loads  
Liquor License Application and Letter of Intent