



# ADVISORY PLANNING COMMISSION REPORT

To: Advisory Planning Commission Members

Date: April 19, 2023

From: Yvonne Mitchell, Planner II

File No: TUP 23-01

Subject: **TUP 23-01; Temporary Use Permit; 815 and 819 Douglas Road**

## BACKGROUND

The subject properties, at 815 and 819 Douglas Road, are located in the Lakeview Heights neighbourhood. The subject properties are both 0.3 acres (1420.45m<sup>2</sup>) and currently developed with single detached dwellings each with four bedrooms.

The two properties were created as part of a three-lot subdivision (which also included 811 Douglas Road to the north) in 2018. Prior to this in 2017, the parent parcel of 811 Douglas Road was rezoned from Large Parcel Single Detached Residential Zone (R1L) to Single Detached Residential (R1) to permit the three-lot subdivision (File Z 17-15). At the time of the rezoning short term accommodations were prohibited in all zones in West Kelowna. As part of the rezoning, the applicant provided a signed letter indicating they were aware short term accommodations were not permitted.

## PROPERTY DETAILS

<b>Address</b>	815 and 819 Douglas Road		
<b>PID</b>	030-873-100 and 030-873-118		
<b>Folio</b>	36414167.097 and 36414167.098		
<b>Lot Size</b>	0.4 acres (1420.45 m <sup>2</sup> ) and 0.4 acres (1420.45 m <sup>2</sup> )		
<b>Owner</b>	1067083 BC Ltd. (Mt. Boucherie Winery)	<b>Agent</b>	Craig McCulloch (Mt. Boucherie Winery)
<b>Current Zoning</b>	Single Detached Residential Zone (R1)	<b>Proposed Zoning</b>	N/A
<b>Current OCP</b>	Single Family Residential	<b>Proposed OCP</b>	N/A
<b>Current Use</b>	Single Detached Dwellings	<b>Proposed Use</b>	Short Term Accommodations
<b>Development Permit Areas</b>	No		
<b>Hazards</b>	No		
<b>Agricultural Land Reserve</b>	No		

## ADJACENT ZONING & LAND USES

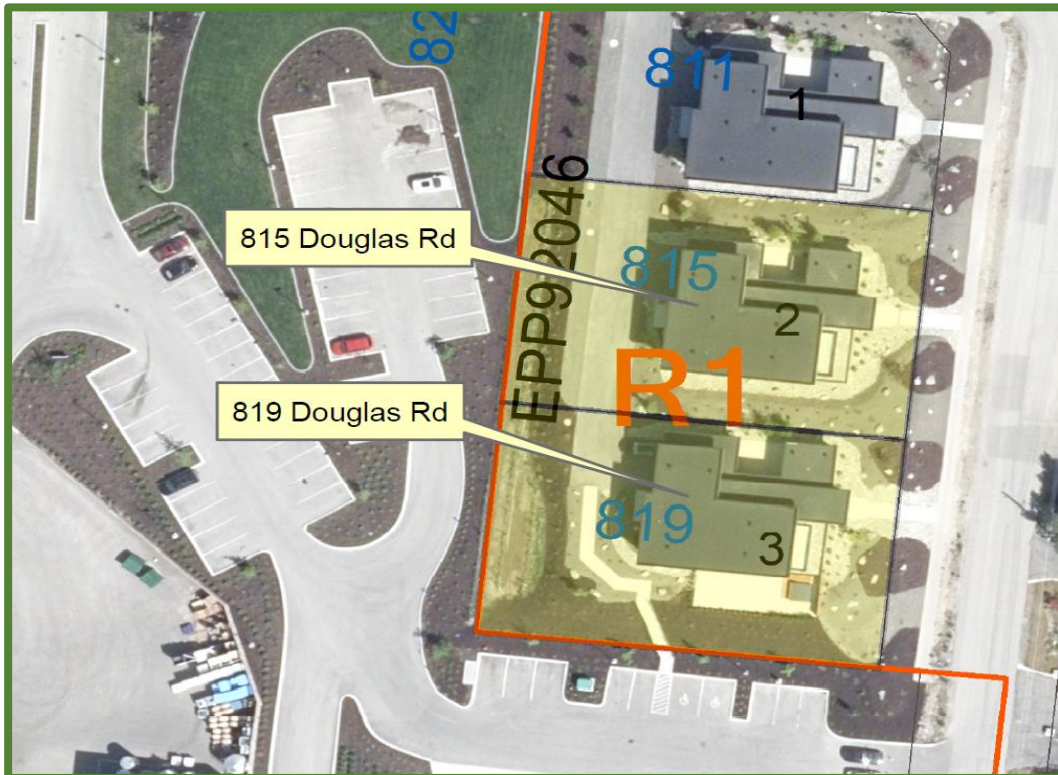
<b>North</b>	^	Single Detached Residential Zone (R1)
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East	>	Single Detached Residential Zone (R1)
West	<	Agricultural Zone (A1)
South	v	Agricultural Zone (A1)

### NEIGHBOURHOOD MAP



### PROPERTY MAP



## **DISCUSSION**

### Proposal

The application is for a temporary use permit for a short term accommodation (STA) where the operator is not a principal resident. That is, the whole of each single detached dwelling will be used for STA. These STAs will be operated by Mt. Boucherie Winery from the adjacent parcel.

### *Applicant's Rationale*

The applicant has provided a rationale for this temporary use permit application (Attachment 1).

### Zoning and Policy Review

#### *Zoning Bylaw No. 0265*

#### Part 23 – Interpretation

The following definitions are provided in the Zoning Bylaw that are relevant to this application:

SHORT TERM ACCOMMODATION means the use of a principal residence for visitor accommodation where the operator hosts guests within a single detached dwelling, secondary suite or carriage house.

PRINCIPAL RESIDENCE means the usual place where an individual makes their home and conducts daily affairs, like paying bills and receiving mail, for the majority of the year.

The proposed temporary use permit application does not meet the above definitions in the Zoning Bylaw as there is no principal residence proposed and instead the operator will be Mt. Boucherie Winery.

#### Part 3 General Regulations

Section 3.5 of the Zoning Bylaw outlines prohibited uses and structures and includes the following:

- .1 Except as expressly permitted by this Bylaw, the following uses are prohibited in every zone:
  - (b) Vacation rentals other than bed and breakfast, short term accommodations, agri-tourism accommodations, and the use of resort apartments and resort townhouses; and

Section 3.21 of the Zoning Bylaw outlines regulations for short term accommodations. This temporary use permit application appears to meet the short term accommodation regulations except for the following:

.2 An occupant of the property shall be the operator of the short term accommodation. For certainty, an occupant shall be a principal resident of the property.

#### Part 4 Off-Street Parking and Loading

Section 4.4 sets out parking space requirements for different uses. A short term accommodation is to have one parking space for one or two bedrooms and two parking spaces for three or four bedrooms. Both 815 and 819 Douglas Road have four bedrooms. The required two parking spaces each can be accommodated in the home's attached garages.

#### Part 10 – Residential Zones

The subject property is zoned Single Detached Residential (R1). The R1 Zone permits a single detached dwelling with a short term accommodation as a secondary use. This proposal is for short term accommodation as a principal use which is not permitted.

The relevant Zoning Bylaw sections discussed above can be found in Attachment 2.

#### *Official Community Plan Bylaw No. 0100*

The Official Community Plan designates the entire City as an area where temporary use permits may be considered based upon the following guidelines:

- a. The use must be clearly temporary or seasonal in nature;
- b. The use should not create an unacceptable level of negative impact on surrounding permanent uses;
- c. An applicant must submit an outline detailing when and how the use in that location will be ended, the buildings to be used, the area of use, the hours of use, appearance, landscaping and buffering, and site rehabilitation. CWK may require security to ensure compliance;
- d. No temporary use permit for industrial uses will be considered for sites located within any of the Residential or Parks and Natural Areas Land Use Designations, nor will they be permitted in the Boucherie/Westbank Centre or Neighbourhood Centre Growth Management Designation.
- e. A temporary use permit may not exceed three years and may only be renewed as per the *Local Government Act*.

#### Temporary Use Permits - *Local Government Act*

Under s.493(2) of the *Local Government Act* a temporary use permit may do one or more of the following:

- (a) allow a use not permitted by a zoning bylaw;
- (b) specify conditions under which the temporary use may be carried on;
- (c) allow and regulate the construction of buildings or structures in respect of the use for which the permit is issued.

## KEY CONSIDERATIONS

In providing recommendations to City staff and Council, the APC may wish to consider the following:

- Short term accommodation as a principal use (no principal resident on site) is not currently permitted in any zones in the City of West Kelowna.
- The proposal appears to otherwise meet the short term accommodation regulations and the required parking can be provided on the properties.

Specific comments would be appreciated should the APC have any concerns with the proposed temporary use permit application, so that they may be further investigated or considered prior to staff providing a recommendation to Council as part of consideration of the application.

Respectfully submitted,

Yvonne Mitchell, Planner II

Powerpoint: Yes  No

Attachments:

1. Applicant's Rationale
2. Zoning Bylaw Sections