



DEVELOPMENT SERVICES COUNCIL REPORT

To: Mayor and Council

Date: July 11, 2023

From: Paul Gipps, CAO

File No: TUP 23-01

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

Report Prepared By: Yvonne Mitchell, Planner II

RECOMMENDATION to Consider and Resolve:

THAT Council authorize the issuance of a Temporary Use Permit (TUP 23-01) to allow for Short Term Accommodation where the operator is not a principal resident for a period of two years.

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 properties, at 815 and 819 Douglas Road, are located in the Lakeview Heights neighbourhood. The subject properties are both 0.3 acres (1420.45m²) and are currently developed with single detached dwellings. The properties (and 811 Douglas Road to the north, which is not part of this application) are all owned by Mount Boucherie Estate Winery, located to the west.

The two properties were created as part of a three-lot subdivision (which also included 811 Douglas Road) 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. Since the initial rezoning, short term accommodations are now permitted, and the applicant has been operating a short term accommodation at 811 Douglas Road.

The City is currently undergoing a review of its short term accommodation regulations. Part of this review involves considering expanding short term accommodation

permissions to winery properties as the winery operators are generally located on the property like other STA operators. It should be noted that the subject properties (815 and 819 Douglas Road), while owned by Mount Boucherie Estate Winery, will not benefit from winery-related changes if implemented, as they are adjacent to and not on the winery property.

PROPERTY DETAILS

Address	815 and 819 Douglas Road		
PID	030-873-100 and 030-873-118		
Folio	36414167.097 and 36414167.098		
Lot Size	0.4 acres (1420.45 m2) and 0.4 acres (1420.45 m2)		
Owner	1067083 BC Ltd. (Mt. Boucherie Winery)	Agent	Craig McCulloch (Mt. Boucherie Winery)
Current Zoning	Single Detached Residential Zone (R1)	Proposed Zoning	N/A
Current OCP	Single Family Residential	Proposed OCP	N/A
Current Use	Single Detached Dwellings	Proposed Use	Short Term Accommodations
Development Permit Areas	No		
Hazards	No		
Agricultural Land Reserve	No		

ADJACENT ZONING & LAND USES

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

NEIGHBOURHOOD MAP



PROPERTY MAP



Legislative Requirements

Temporary Use Permit

Council has the authority under s.493 of the *Local Government Act* to issue a Temporary Use Permit. Such Temporary Use Permit may allow a use not permitted by a zoning bylaw, specify conditions under which the temporary use may be carried on, and allow and regulate the construction of buildings or structures in respect of the use for which the permit is issued. Council also has the authority under s.497 of the *Local Government Act* to set the term of the permit, which can be up to three years after the issuance of the permit.

Proposal

The application is for a temporary use permit for a short term accommodation (STA) where the operator is not a principal resident. The intent is that the entire detached dwellings located at 815 and 819 Douglas Road would be used for STA with no one living on site. These STAs would be operated by Mt. Boucherie Winery from the adjacent parcel. The applicant has indicated they intend to continue to operate 811 Douglas Road as an STA with an operator on-site, complying with the STA regulations if the TUP is approved.

Applicant's Rationale

The applicant has provided a rationale for this temporary use permit application (Attachment 1) as well as a letter for additional clarification on the proposal (Attachment 2).

DISCUSSION

Policy and Bylaw Review

Temporary Use Permit

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*.

The applicant has indicated the proposal is temporary as the TUP is being used as a trial period to see if it will work long-term and is seasonal, as most of the STA bookings will be in the summer months. The applicant has also stated there will not be an unacceptable level of negative impact on surrounding permanent uses as the winery has gone out of its way consistently over the years to ensure the comfort of all neighbouring residents by creating proactive solutions to prevent issues or disturbances before they may have occurred. The applicant's responses to the requirements in the OCP can be found in full in the Applicant's Rationale (Attachment 1) and additional letter (Attachment 2).

Zoning Bylaw No. 0265

The subject properties are zoned Single Detached Residential (R1). The purpose of the R1 zone is to accommodate low-density single detached residential use on parcels of land that are 550 m² and larger. The permitted uses in the zone are as follows:

Principal Uses

- Single detached dwelling

Secondary Uses

- Accessory uses, buildings and structures
- Bed and breakfast
- Care facility, minor
- Carriage House

- Home based business, major
- Secondary suite
- Short term accommodation

Short term accommodation is a permitted use in the R1 Zone. However, short term accommodation is permitted as a secondary use, and this proposal is for short term accommodation as a principal use.

Short Term Accommodation

In the Zoning Bylaw short term accommodation is defined as follows:

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.

The proposed temporary use permit application does not meet the above definition in the Zoning Bylaw as the short term accommodations do not include the use of a principal residence. In the Zoning Bylaw principal residence is defined as follows:

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.

For this proposal, there will be no principal residences on the subject properties as the whole of the dwellings will be used for Short Term Accommodation use.

Short Term Accommodation Requirements

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.

Parking Requirements

Part 4 of the Zoning Bylaw requires (2) off-street parking spaces for a four bedroom short term accommodation. Both 815 and 819 Douglas Road have attached double garages accessed off a private lane that can accommodate the required parking. As there are proposed to be no principal residences on these properties, the typical additional requirement of two parking spaces for the single detached dwellings does not apply.

Referral Comments

The application was referred to various external agencies and internal departments.

Advisory Planning Commission (APC)

The APC considered the application on April 19, 2023, and the following motion was passed:

THAT the Advisory Planning Commission recommend support for file TUP 23-01, Temporary Use Permit, 815 and 819 Douglas Road with a 2 year consideration.

Discussion amongst the APC members included that agri-tourism is a benefit for our community but that this is a special circumstance that may not work for every winery. A recommendation of a two year permit is to see how it works in the neighbourhood.

Agricultural Advisory Committee (AAC)

The AAC considered the application on May 3, 2023, and the following motion was passed:

THAT the Agricultural Advisory Committee support application TUP 23-01, Temporary Use Permit, 815 and 819 Douglas Road, as there is no direct impact on the use of adjacent agricultural land.

Discussion amongst the AAC members included that their recommendation for this application is only based on agricultural considerations as per their Terms of Reference.

Public Notification

Temporary Use Permit

A notification sign has been posted on the subject properties in accordance with the Development Application Procedures Bylaw No. 0260, 2018. Public notice in the form of mail outs to owners and occupants within 100m, newspaper advertisement, and posting on the City's website has been provided in accordance with the Development Application Procedures Bylaw No. 0260, 2018, Public Notice Bylaw No. 0303, 2023 and s.494 of the *Local Government Act*.

CONCLUSION

The proposed temporary use permit meets all short term accommodation requirements except for the operator being a principal resident. Mount Boucherie Winery would instead operate the STAs from the adjacent parcel, and the winery has provided sufficient reasons on why the use is temporary and seasonal, and how any potential conflicts with surrounding existing residential land uses can be addressed. Furthermore, the conditions of the permit state that only Mt. Boucherie Estate Winery can operate these STAs for a period of two years after which a renewal would need to be applied for and considered by Council (Attachment 3). The proposed temporary use permit was also supported by both the City's Advisory Planning Commission and Agricultural Advisory Committee.

Alternate Recommendation to Consider and Resolve:

Option 1: This is the maximum period for a temporary use permit.

THAT Council authorize the issuance of Temporary Use Permit (TUP 23-01) for a period of three years.

Option 2: If Council chooses this option the file would be closed, and the applicant would not be able to apply for a similar application for a period of six months.

THAT Council deny the issuance of a Temporary Use Permit (TUP 23-01); and

THAT Council direct staff to close the file.

REVIEWED BY

Chris Oliver, Planning Manager

APPROVED FOR THE AGENDA BY

Paul Gipps, CAO

Powerpoint: Yes No

Attachments:

1. Applicant's Rationale
2. Letter From Applicant
3. Temporary Use Permit (TUP 23-01)
4. Submission