



# DEVELOPMENT SERVICES COUNCIL REPORT

To: Mayor and Council

Date: January 9, 2024

From: Paul Gipps, CAO

File No: DVP 23-10

Subject: **DVP 23-10, Development Variance Permit (1895 Bartley Road)**

Report Prepared By: Yvonne Mitchell, Planner III

## RECOMMENDATION to Consider and Resolve:

**THAT** Council authorize the issuance of a Development Variance Permit (DVP 23-10) for 1895 Bartley Road to vary s.3.24.1 of the Zoning Bylaw No. 0265 to permit agri-tourism accommodation to be conducted outside of a principal single detached dwelling.

## STRATEGIC AREA(S) OF FOCUS

**Pursue Economic Growth and Prosperity** – We will work with stakeholders 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 Bartley North neighbourhood. The property is occupied by a vineyard and a wine production building with a tasting area which was recently built in 2022. The property is the final lot at the end of Bartley Road.

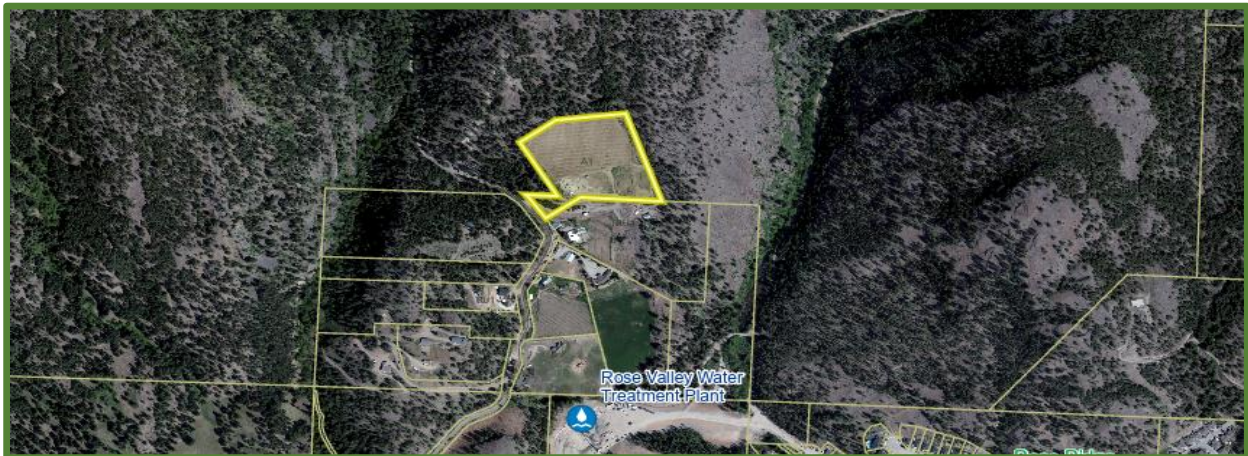
PROPERTY DETAILS			
<b>Address</b>	1895 Bartley Road		
<b>PID</b>	029-215-765		
<b>Folio</b>	36413764.050		
<b>Lot Size</b>	33,763 m <sup>2</sup>		
<b>Owner</b>	James Schlosser and Joanna Schlosser	<b>Agent</b>	N/A
<b>Current Zoning</b>	A1 – Agricultural Zone	<b>Proposed Zoning</b>	N/A
<b>Current OCP</b>	AG – Agricultural	<b>Proposed OCP</b>	N/A

<b>Current Use</b>	Vineyard and Winery	<b>Proposed Use</b>	Vineyard, Winery, and Agri-tourism Accommodation
<b>Development Permit Areas</b>	Wildfire Interface, Ecosystem	Hillside,	Sensitive Terrestrial
<b>Hazards</b>	None		
<b>Agricultural Land Reserve</b>	Yes		

**ADJACENT ZONING & LAND USES**

<b>North</b>	^	F1 – Forest Resource Zone
<b>East</b>	>	F1 – Forest Resource Zone
<b>West</b>	<	F1 – Forest Resource Zone
<b>South</b>	v	RU4 – Rural Residential Large Parcel Zone

**NEIGHBOURHOOD MAP**



**PROPERTY MAP**



## Legislative Requirements

Council has the authority under s.498 of the *Local Government Act* to issue Development Variance Permits.

## Proposal

This variance is part of a two-phase development plan for the property, encompassing the 4 agri-tourism units, a carriage house (which will be considered the primary residence for this application), and a primary residence built in the future. The goal is to create a micro-resort that is built on celebrating local wine and food.

Development Variance Permit is to vary S.3.24.1 of the Zoning Bylaw to allow Agri-tourism accommodation outside of a principal single detached dwelling. The owner is proposing to build 4 agri-tourism units separate from the principal dwelling, all 318 ft<sup>2</sup> in size (Figures 1 & 2).



Figure 1: Map of proposed locations



Figure 2: Urban Outbuildings Design

## **Applicant's Rationale**

The applicant's rationale speaks to the importance of diversity and not putting all your eggs in one basket. Their vision for Niche Winery is a micro-resort destination that celebrates wine, food and family. Under ALC regulations they are allowed up to 10 agri-tourism units and would like to seek a variance to allow for the building of 4 standalone units. The applicant has indicated they are Committed to farming the land to the best of their ability and passing it on for generations to come.

## **DISCUSSION**

### **Zoning and Policy Review**

#### Official Community Plan Bylaw No. 0300

The proposal meets all Official Community Plan No. 0300 policies and is supported by providing additional agri-tourism while supporting agricultural use. Key objectives and policies within the Agriculture Land Use Designation Include:

#### 2.17.2 Agriculture Policies

3. Support cultivation, production, improvement, processing or marketing of plants and animals, agri-tourism, and other agricultural industries in support of the agricultural sector and a diverse use of agricultural lands.

#### Agricultural Plan

The Agricultural Plan includes Recommendation 16: "Agritourism and Culinary Tourism". The plan includes a variety of policies to achieve this recommendation, including the following:

The City of West Kelowna encourage activities that contribute to farming income such as agritourism and culinary tourism.

#### Zoning Bylaw No. 0265

The subject property is zoned Agricultural (A1). The A1 Zone permits agri-tourism accommodations as a secondary use.

The property allows for 4 guest rooms as it is between 4.9 acres and 18.8 acres. The owner is proposing to build a maximum of 4 agri-tourism dwellings separate from the principal dwelling, all 318ft<sup>2</sup> in size. A variance is required to S.3.24.1 of the Zoning Bylaw to permit this proposal.

The applicants plan to construct their home and agri-tourism units simultaneously and have assured staff that they will reside on the property before renting the units. A condition has been added to the DVP to require a principal residence on the property prior to operating the agri-tourism accommodation units.

### 3.24. Agri-tourism Accommodation

1. Agri-tourism accommodation shall only be conducted within a principal single detached dwelling.

Parcel Size	Maximum Number of Guest rooms
Parcels less than 2.0 ha (4.9 ac)	0
Parcels equal to or greater than 2.0 ha (4.9 ac) and less than 7.6 ha (18.8 ac)	4
Parcels greater than 7.6 ha (18.8 ac)	10

Figure 2: Table 3.13 Maximum number of guest rooms.

#### Agricultural Land Commission Use Regulation

As per s.33(2) of the Agricultural Land Commission Use Regulation, “the use of agricultural land for providing accommodation in relation to an agri-tourism activity is permitted if all of the following conditions are met:

- a) the accommodation is located on agricultural land that is classified as a farm under the *Assessment Act*;
- b) the total developed area for structures, landscaping and access for the accommodation is less than 5% of any parcel;
- c) the accommodation is limited to 10 sleeping units in total, including bedrooms under section 34 [*tourist accommodation*];
- d) accommodation is provided on a seasonal or short-term basis only.”

The Applicant has made significant changes to their original proposal to meet both ALC Regulations and Zoning Bylaw No.0265 by removing kitchens and reducing the number of units from 5 to 4. Agri-tourism accommodations must exist in tandem with an agri-tourism activity which conforms to policy L-04 (Agri-tourism activities in the ALR). The applicant's proposal meets this policy by inviting guests to tour the farm and experience winemaking. This proposal meets the ALC Use Regulations by being classified as a farm under the Assessment Act as well as not exceeding the developable area maximum of 5%. The agri-tourism accommodations will be used on a short-term basis which means less than 30 days in both the ALC Regulations and Zoning Bylaw No.0265.

#### **Referral Comments:**

The application was referred to various external agencies and internal departments. The referral comments received did not include any objections to the application.

#### Ministry of Agriculture

The Ministry staff notes that the applicant is a grape grower and winemaker and has the intention of continuing to farm on the property while diversifying income streams. The application also states the buildings are intended to be built along the southern portion of the property within reasonable proximity to limit sprawl and impact on agricultural land. It

is however unclear from the application materials if there is an agri-tourism activity occurring on the parcel which is required under ALR use regulation.

**Council Committee Feedback:**

The application was presented to the Agricultural Advisory Committee (AAC) on November 1st, 2023. The following resolution was made by the Committee:

It was moved and seconded

**THAT** the Agricultural Advisory Committee recommend support for file DVP 23-10, Development Variance Permit, 1895 Bartley Road.

CARRIED UNANIMOUSLY

AAC members noted that the dwelling size is a relatively small footprint and that it may supplement the agricultural use as it might enable the applicants to keep growing grapes and making wine. AAC did note that approval for this property is not approval on the community as a whole. It was noted as a unique property and not to be precedence-setting.

**CONCLUSION**

The proposal is consistent with the Land Use Designation in the Official Community Plan and the ALC's use regulations for Agri-Tourism. The Agricultural Plan speaks to encouraging activities that contribute to farming income, such as agri-tourism, and the applicant's proposal aligns with those policies. It is not anticipated that the proposal will create a negative impact on the surrounding area, and the accommodations will promote additional tourism in an area that does not benefit from close proximity to the Wine Trail.

**Alternate Recommendation to Consider and Resolve:**

**Option 1:**

**THAT** Council deny the issuance of a Development Variance Permit (DVP 23-10) for 1895 Bartley Road to vary s.3.24.1 of the Zoning Bylaw No. 0265 to permit agri-tourism accommodation to be conducted outside of a principal single detached dwelling;

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

Should Council deny the proposed Development Variance Permit, the application will be closed in accordance with the Development Applications Procedures Bylaw No. 0260. Council shall not reconsider an application of this nature for the property for a period of six months.

**Option 2:**

**THAT** Council postpone the issuance of a Development Variance Permit (DVP 23-10) for 1895 Bartley Road to vary s.3.24.1 of the Zoning Bylaw No. 0265 to permit agri-tourism accommodation to be conducted outside of a principal single detached dwelling.

Should Council postpone consideration of the Development Variance Permit, it is requested that additional direction be provided to staff.

**REVIEWED BY**

Chris Oliver, Planning Manager

Brent Magnan, Director of Development Approvals

Corinne Boback, Legislative Services Manager / Corporate Officer

Trevor Seibel, Deputy CAO

**APPROVED FOR THE AGENDA BY**

Paul Gipps, CAO

Powerpoint: Yes  No

Attachments:

1. Development Permit DVP 23-10