



## COUNCIL REPORT

To: Paul Gipps, CAO

Date: August 24, 2021

From: Carla Eaton, Planner III  
Sara Skabowski, Student Planner

File No: DVP 20-08

Subject: **DVP 20-08; Development Variance Permit; Goats Peak Winery (2789 Highway 97S)**

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### RECOMMENDATION

**THAT** Council authorize the issuance of a Development Variance Permit (DVP 20-08) for Lot A, DL 3188, Plan 2680 Except Plan KAP63607 (2789 Highway 97 S) to allow construction of a winery building in general accordance with the attached permit to vary Zoning Bylaw No. 0154 Section 8.2.5(e) to increase the maximum building height from 15.0 m to 35.05 m for the proposed winery building, subject to the following conditions:

- a. Dimensions, siting, and design of the winery building to be constructed on the property in accordance with Schedule 'A';
- b. Exterior lighting shall be designed to not spill over onto, or create glare on adjacent properties; and
- c. Submission of an assessment by a qualified Professional Fire Protection Engineer evaluating life safety and fire suppression requirements for the proposed structure at time of Building Permit. The assessment is subject to review by the City of West Kelowna's Fire Chief based on the needs of West Kelowna Fire Rescue.

### STRATEGIC AREA(S) OF FOCUS

Economic Growth and Prosperity – Growth in local business; Quality, innovative urban development; Continued growth in tourism (Council's 2021-2022 Strategic Priorities).

### BACKGROUND

The subject property is a vacant piece of agricultural land, located within the Agricultural Land Reserve. The subject property is located in the Goats Peak/Gellatly neighbourhood and is zoned A1 – Agricultural. The subject property is near the Highway 97 overpass located at Gorman Brothers Mill.

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#### PROPERTY DETAILS

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|                |                   |
|----------------|-------------------|
| <b>Address</b> | 2789 Highway 97 S |
| <b>PID</b>     | 004-988-914       |
| <b>Folio</b>   | 36414590.375      |

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|                                  |   |                        |                                      |
|----------------------------------|---|------------------------|--------------------------------------|
| <b>Lot Size</b>                  | 17.68 acres (7.1 ha)                        |                        |                                      |
| <b>Owner</b>                     | Goats Peak Winery Ltd. Inc.<br>No BC1171993 | <b>Agent</b>           | Chris Nagy (Bronag Contracting Ltd.) |
| <b>Current Zoning</b>            | A1 - Agricultural                           | <b>Proposed Zoning</b> | -                                    |
| <b>Current OCP</b>               | Ag - Agricultural                           | <b>Proposed OCP</b>    | -                                    |
| <b>Current Use</b>               | Vacant                                      | <b>Proposed Use</b>    | Winery                               |
| <b>Development Permit Areas</b>  | Hillside/Terrestrial                        |                        |                                      |
| <b>Hazards</b>                   | n/a   |                        |                                      |
| <b>Agricultural Land Reserve</b> | Yes   |                        |                                      |

### ADJACENT ZONING & LAND USES

|              |   |  |
|--------------|---|--|
| <b>North</b> | ^ | A1 – Agricultural (ALR) Zoned Parcel   |
| <b>East</b>  | > | A1 – Agricultural (ALR) Zoned Parcel   |
| <b>West</b>  | < | I3 – Timber Processing and Manufacturing & C4 – Service Commercial Zoned Parcels           |
| <b>South</b> | v | RU4 - Rural Residential Large Parcel & RU3 – Rural Residential Medium Parcel Zoned Parcels |

### NEIGHBOURHOOD MAP



### PROPERTY MAP



## DISCUSSION

### Application History

The original application for DVP 20-08 and A 20-01 was received in May of 2020. At that time the applicant proposed to construct a wine production and tasting facility in the design of a lighthouse on the subject property, located within the Agricultural Land Reserve (ALR). The application required an approval for a Non-Farm Use from the Agricultural Land Commission (ALC) and a height variance from the City of West Kelowna Zoning Bylaw No. 0154.

In October of 2020, Council considered the application and passed a resolution to postpone the issuance of the Development Variance Permit (DVP) but support the request to permit a non-farm use for a winery production and tasting building in the ALR (*Attachment 2*). The original design was a significant concern in relation to the requested height variance. As a result, Council recommended further public consultation and that design drawings with more detail are required to illustrate the form and character of the development. The Non-Farm Use application was forwarded to the ALC for their consideration, and to date the application is still under review by the ALC.

In May of 2021, staff received a resubmission of the application pertaining to the postponed DVP 20-08. The proposal was referred to the City's Agricultural Advisory Committee (AAC) in June of 2020. The AAC supported the proposal. In response to Council's and the AAC's feedback, as well as staff's technical review, the proposal was resubmitted in July of 2021 with revisions.

### Applicant's Rationale

The applicant has provided a revised rationale letter for the design of the building (*Attachment 3*). The design feature of the building includes two tasting pods with two additional look outs accessed off the tower, that offer a different viewing experience of Glenrosa, Okanagan Mountain Park, Mount Boucherie, and across the lake to Kelowna's wine district. The applicant feels that the structure has the potential to be a symbol for the community and a landmark for the wine trail. The applicant has also noted that 4.3 acres of vineyard were planted in the Spring of 2020 and another 4.5 acres planted this Spring, 2021.

### Revised Proposal

The original proposal for the tasting facility was designed in the form of a lighthouse, with a proposed building height of 35.05 m (*Figure 1*).

The revised proposal continues to seek a variance to Section 8.1.5(e) of the Zoning Bylaw No.0154, to increase the maximum building height from 15.0 m



*Figure 1 – Original Proposal, May 2020*

to 35.05 m for the development of a winery building on the subject property (*Attachment 3*).

The applicant proposes to construct a 135m<sup>2</sup> production facility and a 190 m<sup>2</sup> tasting facility on the subject property, with less than 5% (3.9% total non-farming use) of total lot coverage proposed by the farming related commercial/industrial uses. A small building footprint has been proposed to minimize the impact on the farmable land.

Concerns regarding the visual impact and building features have been addressed and improved through the redesign in massing, materials, colours, and textures of the revised tasting facility (*Figure 2*). Materials such as board-form concrete, clad wood, and corten steel are intended to texture the building. Variations in the concrete forms are cut into patterns to reduce the impact of long solid walls. In order to blend the tower into its local surroundings, a concrete pigment palette of earthy tones has been proposed. The main entry wall and waterfall is intended to act as a privacy screen and an acoustic barrier from the highway.



*Figure 2 - Revised Proposal, July 2021*

## **Policy and Bylaw Review**

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

The City's Official Community Plan's (OCP) guiding principles support protecting and enhancing agriculture while supporting an economically sound community.<sup>1</sup> Specific Agricultural Land Use Designation objectives speak to supporting land use decisions which are consistent with the Agricultural Land Commission (ALC) and the City's Agricultural Plan and promote innovative agricultural activities<sup>2</sup>.

Other General Objectives within the OCP aim to preserve and enhance views and the natural quality of hillsides in the City of West Kelowna. The OCP policies establish

<sup>1</sup> OCP 2.5.1 Guiding Principles for Planning & Design

<sup>2</sup> OCP 3.3.8 Agricultural Land Use Designation Objectives

objectives for form and character in order to make a place attractive and viable. While Agricultural developments are *not* subject to a Development Permit process, where Commercial and Industrial developments would be, the City's design guidelines should be considered due to the scale of the proposed height variance. These guidelines maintain quality standards for form and character in architecture and landscape design.

Section 4.3.1 of the OCP provides general guidelines for form and character. These guidelines consider the relationship of the proposed building on nearby residential uses<sup>3</sup> while preserving views from the surrounding neighbourhood<sup>4</sup>. Given the scale, use, and context of the proposed development, a number of form and character guidelines could be applied.

The revised proposal is found to be consistent with OCP policies and has met a number of form and character guidelines, including the following:

- Minimizing impacts on agricultural land;
- Reducing the perceived massing of structures;
- Detailed facades incorporating a variety of colours, materials, and textures;
- Change in building mass, variations in façade, materials, textured surfaces, reveals and colours to reduce impact of long, solid walls;
- Preserving and incorporating views from the surrounding neighbourhood; and
- Exterior lighting designed to not spill over onto or create glare on adjacent properties.

### *Agricultural Plan*

The Agricultural Plan recommends encouraging efforts to increase economic activity of the agricultural industry<sup>5</sup> while supporting agritourism activities<sup>6</sup>. The Plan also encourages food processing on farms when the development is consistent with the *Agricultural Land Commission Act and Regulations*<sup>7</sup>.

### *Zoning Bylaw No. 0154*

The subject property is zoned A1 – Agricultural, which permits a winery as a principal use. The proposed development continues to seek a variance to permit the maximum building height of 35.05 m. Section 8.1.5(e) regulates the height of buildings on A1 zoned parcels to a maximum of 15.0 m. The proposed development meets all of the development requirements including setbacks and parcel coverage for the A1 zone with the exception of building height.

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<sup>3</sup> Section 4.3.1 Form & Character (General Guidelines) 22.g.

<sup>4</sup> Section 4.3.1 Form & Character (General Guidelines) 22.d.

<sup>5</sup> Section 4.5.6 Recommendation 13: Economic Development Strategies

<sup>6</sup> Section 4.5.9 Recommendation 16: Agritourism and Culinary Tourism

<sup>7</sup> Section 4.5.10 Recommendation 17: Processing and Value-Added

## Technical Review

The height variance of the proposed winery building is significant. The proposed building height of 35 m is over double the current maximum of 15 m (4 storeys). 15 m is the highest permitted building height within any zone in the City of West Kelowna.

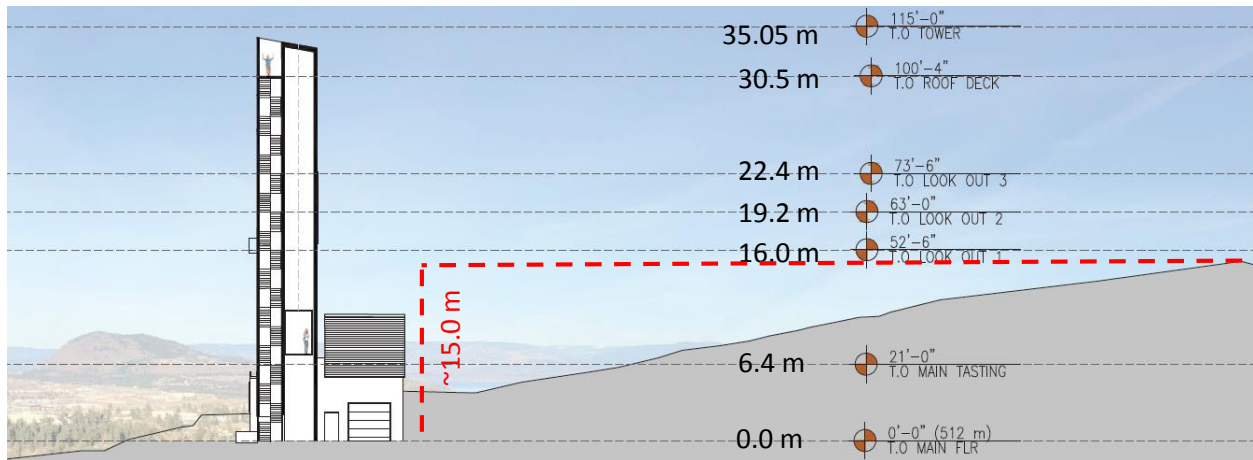
The City's OCP and Agricultural Plan have no direct policies that address form and character or height of buildings on agricultural lands. The proposed building would be unique in the region and a landmark. A height comparison has been provided with reference to local context (*Figure 3*). The proposed structure would be 1.2 m (4 ft) higher than the Mission Hill Winery bell tower structure.



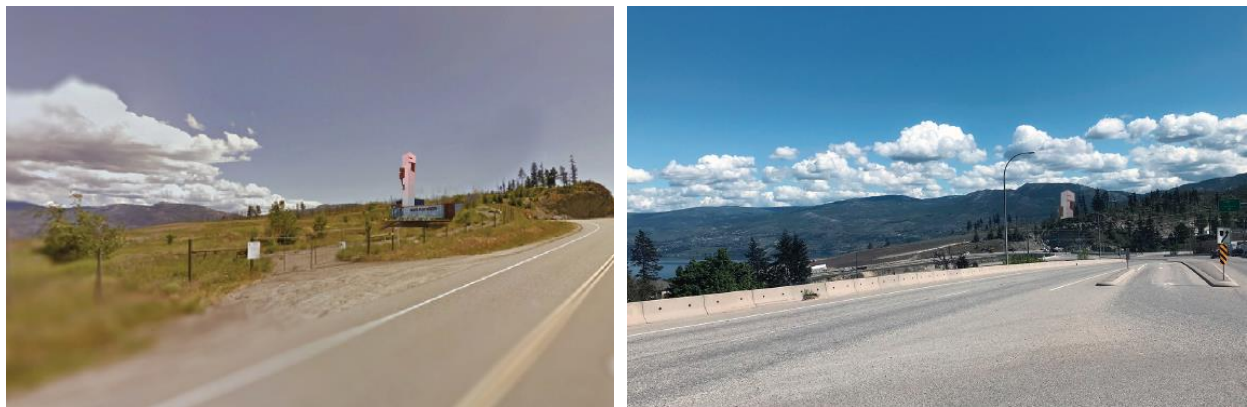
**Figure 3 - Height Comparison with Local Context**

In order to preserve views from the surrounding neighbourhood, the applicant is proposing to use the existing natural hillside to embed the structure into the slope, with the main floor grade of the building at approximately 15 m lower than the peak of the hill (*Figure 4*).

The applicant has provided a Visual Impact Assessment, which provides additional details on how the proposed over height of the structure could impact views (*Figure 5*). The assessment identifies views of the proposed building from various nearby roads. The assessment indicates that the building would bring visual interest from Highway 97 S.



**Figure 3 - Building Section, West Elevation**



**Figure 5: Visual Impact Assessment from Highway 97 S**

### *West Kelowna Fire Rescue*

As per the Fire Rescue Establishment Bylaw No. 0114, the proposed development is considered a “high rise building”, However, with the building being deemed an “unusual/special structure” by the building department and the occupied assembly space present on the upper floors, the fire department requires further clarification of life safety and firefighting measures to be in place at time of development. An assessment by a qualified Professional Fire Protection Engineer evaluating the life safety and fire suppression requirements for the proposed structure will be required at time of Building Permit. The assessment is subject to review by the City based on the needs of West Kelowna Fire Rescue.

At present West Kelowna Fire Rescue may be challenged in responding an adequate number of staff to rescue occupants and fight a fire within a high rise. The fire department will identify operational options and solutions to ensure an adequate response to a high-rise fire. The response of other trained and equipped mutual aid fire departments from nearby communities will be required, for example.

### *Anticipated Costs*

The Fire Department estimates costs of up to \$150,000 to deliver a high rise firefighting training program to all firefighters and up to \$50,000 to purchase additional equipment for the purposes of protecting life safety and firefighting in a high building (hoses, nozzles and associated tools). The training program would consist of 4 days of off duty training and skills/drills for West Kelowna Fire Rescue staff. The fire department anticipates working closely with the developer to identify onsite training opportunities during and after construction.

It is noted that the one-time costs to deliver such a program are directly related to this proposed structure at this time and that these costs may be incurred in the future as additional higher density development in West Kelowna is realized. The Official Community Plan will guide future growth in the City and determine the likelihood of development greater than 6 storeys in height. At current, the City has 1 additional application in-stream with heights greater than 6 storeys.

### Referrals

The revised proposal was referred to a number of stakeholders. A number of comments and concerns were noted and addressed. It was confirmed that the proposed location and height of the building would not interfere with the operation of helicopters for agricultural crop protection services. Advisory comments relating to building, fire, and development engineering have been received with requirements to be addressed at time of building permit.

### Legislative Requirements

Section 498 of the *Local Government Act* gives Council the authority to issue a Development Variance Permit that varies, in respect of the land covered in the permit, the provisions of the Zoning Bylaw.

### Public Notification

In accordance with the *Local Government Act*, 9 notification letters were sent to all property owners and their tenants within 100 metres of the subject property (*Attachment 4*) and a notice of application sign has been placed on the subject property in accordance with the Development Applications Procedures Bylaw No. 0260.

At time of writing this report, no submissions from the public had been received regarding the revised proposal.

## **FINANCIAL IMPLICATIONS**

Additional costs for training and or equipment to support Fire Services will be brought forward as future budget requests.



## COUNCIL REPORT / RESOLUTION HISTORY

| Date             | Report Topic / Resolution   | Resolution No. |
|------------------|---|----------------|
| October 13, 2020 | <p><b>THAT</b> Council postpone the issuance of a Development Variance Permit (DVP 20-08) for Lot A, DL 3188, Plan 26860, Except Plan KAP63607 (2789 Highway 97 S); and</p> <p><b>THAT</b> Council support the request to permit a non-farm use for a winery production and tasting building in the Agricultural Land Reserve (File: A 20-01) Lot A, DL 3188, Plan 26860, Except Plan KAP63607 (2789 Highway 97 S); and further</p> <p><b>THAT</b> Council direct staff to forward the application to the Agricultural Land Commission for consideration.</p> | C260/60        |

## CONCLUSION

Subject to acceptance of the financial implications associated with the introduction of a high-rise fire fighting program in the City, it is recommended that Council approve the proposed variance application DVP 20-08. The variance relating to building height is not anticipated to create significant negative impacts to surrounding properties and the applicant has provided information to support this. Although Agricultural developments are not subject to a Form and Character Development Permit process, the City's design guidelines have been considered due to the scale of the proposed height variance. The proposed winery building is consistent with OCP policies and has met a number of form and character guidelines, including the following:

- Minimizing impacts on agricultural land by proposing a smaller building footprint;
- Reducing the perceived massing of structures;
- Detailing facades through a variety of colours, materials, and textures;
- Reducing the impact of long solid walls through changes in building mass, variations in façade, materials, textured surfaces, reveals and colours;
- Preserving and incorporating views from the surrounding neighbourhood; and
- Designing exterior lighting to not spill over onto or create glare on adjacent properties

**Alternate Motion:**

Alternate Motion 1: Deny Variance

**THAT** Council deny the issuance of a Development Variance Permit (DVP 20-08) for Lot A, DL 3188, Plan 26860 Except Plan KAP63607 (2789 Highway 97 S).

Should Council deny the requested variance, the file will be closed. The applicants would be advised to redesign the proposed winery building to meet the Zoning Bylaw's height regulations. As per the City's Development Applications Procedures Bylaw No. 0260, the applicant could re-apply for a similar proposal 6 months after initial Council consideration.

**REVIEWED BY**

Brent Magnan, Planning Manager

Mark Koch, Director of Development Services

Shelley Schnitzler, Legislative Services Manager/Corporate Officer

**APPROVED FOR THE AGENDA BY**

Paul Gipps, CAO

Powerpoint: Yes  No

Attachments:

1. Draft DVP 20-08
2. DVP 20-08 and A 20-01 Council Report, October 13 2020
3. Design Proposal for Height Variance and Rationale
4. Public Notification Map