



Agricultural Land Commission Staff Report

DATE: March 5, 2010
TO: Vice Chair and Commissioners - Okanagan Panel
FROM: Brandy Ridout

RE: Application # 51267

PROPOSAL: To obtain a Food Primary License for an existing food and beverage service lounge that would permit the sale of other liquor besides B.C. wines. B.C. Regulation #171/2002 permits a food and beverage service lounge no larger than 125 m² (indoors) and 125 m² (outdoors - patio) for wineries. The current Winery License permits wine to be purchased from another winery licensed under section 12 of the Liquor Control and Licensing Act for manufacturing purposes or for sale by the glass.

PROPOSAL INFORMATION

Background: The existing restaurant has been in operation since 2003.
Received Date: January 4, 2010
Applicant: Burrowing Owl Vineyards Ltd
Agent: N/A
Local Government: Regional District of Okanagan-Similkameen

DESCRIPTION OF LAND

PID: 023-908-271
Legal Description: Lot 1 District Lot 2450S Similkameen Division Yale District Plan KAP60091
Civic Address: 6915 Burrowing Owl Place 2.7 km north from Osoyoos Lake
Area: 11.3 ha
ALR Area: 11.3 ha
Purchase Date: April 6, 1994
Owner: Burrowing Owl Vineyards Ltd

Total Land Area: 11.3 ha
Total ALR Area: 11.3 ha
Current Land Use: Vineyard and winery with a restaurant, 10 room guesthouse, administration offices and a wineshop

PROPOSAL DETAILS

Non Farm Use

Area	Agricultural Capability	Agricultural Capability Source
11.6	Prime	BCLI

Surrounding Land Uses:

North	Vineyard in the ALR
East	Vineyard in the ALR
South	Vineyard in the ALR
West	Vineyard in the ALR

Official Community Plan

Bylaw Name:	Bylaw #2452, 2008
Designation:	Agricultural
OCP Compliance:	Yes

Zoning

Zoning Bylaw Name:	Bylaw #2453, 2008
Zoning Designation:	Agriculture 2
Minimum Lot Size:	10.0 ha
Zoning Compliance:	Yes

RELEVANT APPLICATIONS

Application #: 40980

Applicant: Stephen Cipes

Proposal: To obtain a full liquor license for Summerhill Winery's existing restaurant facility. The facility is currently operating under a lounge endorsement (wine only)

Decisions:

Resolution

Number

Decision Date

Decision Description

167

April 8, 2004

The Commission refused this application to obtain a full liquor license for an existing restaurant facility on the grounds that it is not supported by local government planning documents or the Agricultural Advisory Committee for the City of Kelowna.

Committee Recommendations

Type

Recommendation

Description

Board/Council

No Comment

Regional District of Okanagan Similkameen Board of Directors authorized the application for submission with Director Patton recorded as opposed.

Electoral Area Director

Refuse

Electoral Area Director Allan Patton does not support the proposal.

STAFF COMMENTS

- 1) The proposal would entail no change to the winery development footprint. However, it is possible that the facility (both the restaurant and guest rooms) would be more intensively used with a broadening of liquor options.
- 2) The Commission refused a request in 2004 from Summerhill Winery to serve all types of liquors at its winery lounge. It is staff's understanding that Summerhill intends to re-submit a similar application.
- 3) The restaurant has been operating since 2003 (originally with a food primary licence). The applicant indicates that they have an exemplary track record and believe strongly in the agri-tourism program, having developed a facility that minimizes the impact on the agricultural land by building on top of production areas to avoid sprawl and uses as much local product as possible.
- 4) The applicants indicate that the fundamental reason for the proposal is to allow beer to be offered to their customers. The beer offered for sale would be produced in BC, with special attention given to Okanagan brewers. The applicants point out that a recent wedding was cancelled at the winery because the groom could not be served beer.
- 5) There is a belief in the wider farm community that wineries have more extensive land use rights than other types of farming because they are permitted, without application, to operate a restaurant on ALR land to serve wines they produce and VQA wine which is produced in BC. No other agricultural commodity producers are permitted a restaurant. The only restriction on the winery lounge is that it cannot serve non-B.C. wines, or other liquors and beer. The reason for the restriction was to ensure that the primary purpose of the winery restaurant was to use the food to complement and sell wine which is produced on-site.
- 6) The Electoral Area Director Allan Patton is opposed to the application, noting that if it is allowed, then fairness and equity dictate that this non-farm use should apply to all ALR wineries.
- 7) The applicant has responded to Director Patton's letter with an information package that includes comments responding to points in ' how the Commission makes a decision' , a rebuttal to Allan Patton's letter, information on agri-tourism, the presentation to RDOS Council, RDOS Planning Department Analysis and Recommendations, a brochure entitled ' The Green Winery' , and a copy of the Food Primary Licence issued to BOV in 2003. The information package is included as an attachment to this staff report.
- 8) This application has wider provincial policy implications - firstly what are the implications of permitting all wineries full food service licenses? Secondly, how would this be perceived by other commodity producers located in the ALR which are not permitted restaurants to help sell their farm products?

ATTACHMENTS

51267_ContextMap20k.pdf
51267_AirphotoMap20k.pdf
51267 additional information.pdf

END OF REPORT

Signature

Date