

Memo



Date: May 6, 2011
To: City Manager
From: Land Use Management, Community Sustainability
Application: LL10-0017 (LT) **Property Owner:** Wyn & Marion Lewis
Address: 3240 Pooley Road **Applicant/Licensee:** Okanagan Estate Winery
Subject: Winery Special Event Area Endorsement

1.0 Recommendation

THAT in accordance with Section 53 of the *Liquor Control and Licensing Regulation* and City of Kelowna Council Policy #359:

1. Council recommends support for the application from Okanagan Estate Winery at 3240 Pooley Road, Kelowna BC, (legally described as Lot 2, Plan 3379, Section 15, ODYD, Township 26) for a Winery Special Event Area endorsement, as the request is considered an appropriate form of agri-tourism in the area. In addition, the applicant has revised their original application to address public concerns.
2. The Council's comments on the LCLB's prescribed considerations (bolded) are as follows:
 - a) **The location of the winery special event area:**

The winery is located within a well-established rural/agricultural community which includes other agri-tourism operations. The proposed special event areas surround the property owner's personal residence within private, secure, landscaped areas.
 - b) **The proximity of the establishment to other social or recreational facilities and public buildings:**

There are no significant social or recreational facilities in the immediate area.
 - c) **The person capacity of the deck area:**

The deck is no longer included as part of the endorsement application.
 - d) **The hours of service of the establishment:**

The proposed hours of service from 11:00am-8:00pm, Thursday-Saturday is considered appropriate given the types and frequency of events being proposed.
 - e) **Traffic, noise, parking and zoning:**

The Special Event Area endorsement may enhance the intensity of activity on-site. However, the area already sees tourist traffic from various agri-tourism operations, and any increase in parking and traffic would be incremental. There may be potential for increased noise from the licensed special events. Wineries and cideries are allowed within the A1 - Agriculture 1 zone.

f) **The impact on the community if the application is approved:**

Opportunities to increase the viability and awareness of agri-tourism operations should be seen as a benefit to the tourism industry and the greater community. Noise impacts on surrounding property owners could be mitigated by the proposed hours.

g) **View of residents.**

The Council's comments on the views of residents (if applicable) are as contained within the minutes of the meeting at which the application was considered by Council. The methods used to gather views of residents were as per Council Policy #359 "Liquor Licensing Procedures - Liquor Primary and Retail Liquor Sales."

2.0 Purpose

This application seeks Council's endorsement of the addition of a Winery Special Event Area Endorsement for Okanagan Estate Winery.

3.0 Land Use Management

Agri-tourism operations, including wineries, are considered a key component of Kelowna's tourism industry. In this regard, the proposed Special Event Area Endorsement is seen as a means to further enhance this sector's development. Weddings, corporate functions and cultural events could help to further promote East Kelowna as an agricultural tourism destination. In addition, the endorsement would eliminate the need for the operators to obtain a Special Occasion License for each and every licensed event.

The applicant has revised their original application to reflect the comments raised by both Council and area residents in February 2011. The proposed hours, days and areas for the endorsement have been reduced. The applicant has also provided a revised letter of intent which outlines proposed events and clientele.

Notwithstanding the concerns of increased noise in a rural setting, the Land Use Management Department recommends support for the Special Event Area endorsement given the revised endorsement parameters.

4.0 Summary

4.1 Background

An application for a "Winery Special Event Area" endorsement has been forwarded by the licensee to the Provincial Liquor Control and Licensing Branch (LCLB) for their approval. Procedurally, this type of winery endorsement requires Local Government comment on the application, prior to the LCLB making a final decision.

Okanagan Estate Winery currently operates on the 4.5ha subject property. The property includes a wine shop/tasting room located in an older home adjacent to Pooley Road, as well as a large residence complex in the northern portion of the site.

Council gave previous consideration to this referral at the Regular Meeting on February 8, 2011. The following resolution was passed:

THAT Council DOES NOT endorse the application from Okanagan Estate Winery at 3240 Pooley Road, Kelowna BC, (legally described as Lot 2, Plan 3379, Section 15, ODYD, Township 26) for a Winery Special Event Area endorsement, for the following reasons:

- the proposed hours of operation are not acceptable;
- there is a concern with respect to the number of patrons (200) being allowed to occupy the outside deck;
- there is a concern with respect to on-site parking as is not clear where the parking will be located; and
- as this is a quiet rural farming community, there is a concern with the noise impacts from the proposed concerts and festivals.

The applicant was directed to revise their application should they wish to pursue the endorsement further.

4.2 Proposal

The applicant has requested to add the Winery Special Event Area endorsement to their existing winery license. If approved, the endorsement would allow the winery to host licensed events such as wedding receptions, corporate functions, concerts and festivals in the designated outdoor areas of the winery. With the endorsement, liquor service and consumption is only permitted in special event areas. The winery may sell and serve their own wine, other BC wines, cider and wine coolers by the glass or bottle. No other alcoholic beverages may be served. A reasonable variety of food items and non-alcoholic beverage must always be available to patrons at reasonable prices. Minors are permitted in a winery special event area when accompanied by a parent or guardian.

Currently, there are no wineries in the City of Kelowna that have a Special Event Area endorsement, while two wineries in the District of West Kelowna are in the process of obtaining the endorsement. Typically, Special Occasion Licenses (SOL) are utilized at wineries for licensed special events. SOL's permit the sale of all alcoholic beverages, and is not just limited to BC wine products. While the property is within the Agricultural Land Reserve, the ALR permits Special Event Area Endorsements for winery and cideries, provided they are ancillary to the operation (see attached "Information Bulletin").

The applicant plans to utilize the special event area endorsement for a number of different types of events, including weddings, corporate functions, and concerts. The requested endorsement would eliminate the requirement to obtain a Special Occasion License for each individual event.

4.3 Revised Plans

Since the original consideration in February 2011, the applicant has revised their application to address both Council and the public's concerns. Changes include:

- Change in hours from 9:00am-11:00pm daily to 11:00am to 8:00pm, Thursday-Saturday
- Removal of the outdoor deck area from the proposed endorsement.
- Parking areas identified on-site for 125 vehicles.

The proponents have also proposed to limit the number and scale of events at the venue. The specified special event area is shown in the attached site plan. This includes the fenced lawn surrounding the villa and the grass courtyard of the estate. No interior areas are proposed.

Proposed Endorsement Summary:

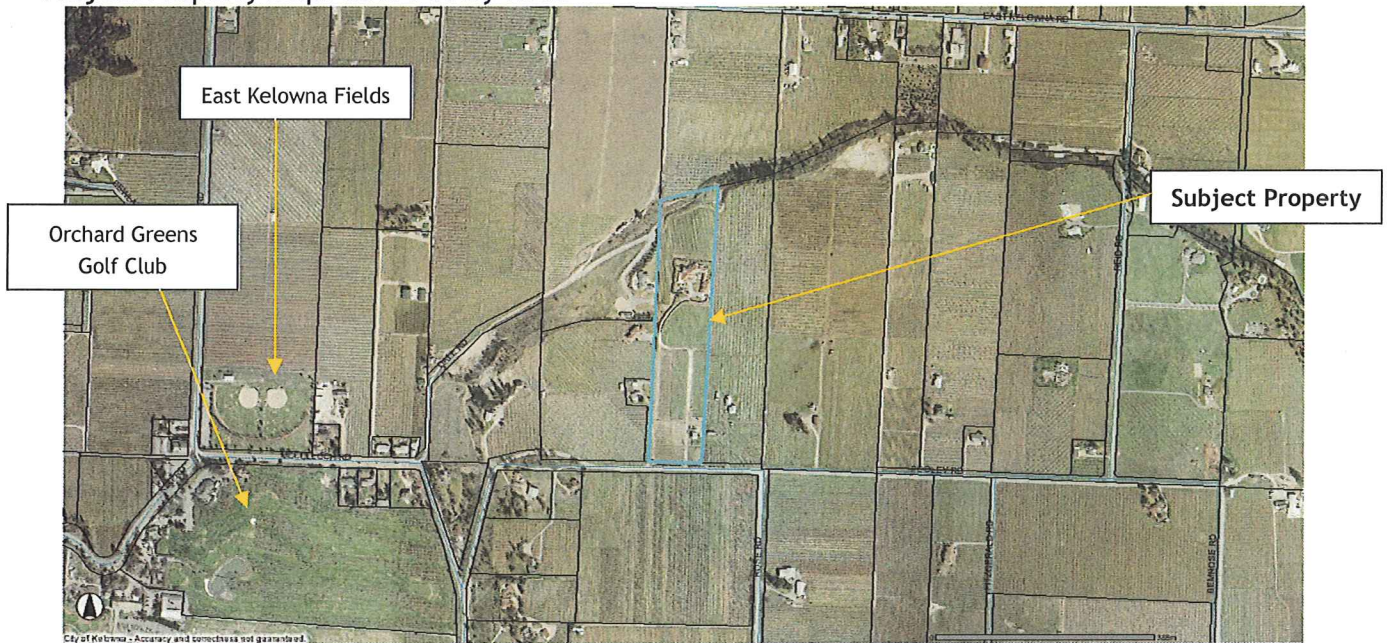
Hours of Operation:

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Proposed Hours	Closed	Closed	Closed	11:00am-8:00pm	11:00am-8:00pm	11:00am-8:00pm	Closed

4.3 Site Context

The subject property is located in the East Kelowna area, surrounded by properties within the Agricultural Land Reserve, and zoned A1 - Agriculture 1.

Subject Property Map: 3240 Pooley Road



5.0 Circulation Comments

5.1 Fire Department

No concerns.

5.2 Public Health Inspector

Approval to operate as winery only. A health permit to operate is additionally required for any future food service. No objections to endorsement, proved application made to health for permits.

5.3 RCMP

No comment.

Report prepared by:



Luke Turri, Land Use Planner

Reviewed by:



Danielle Noble, Manager, Urban Land Use Management

Approved for Inclusion:



Shelley Gambacort, Director, Land Use Management

Attachments:

Subject Property Map

Air Photo

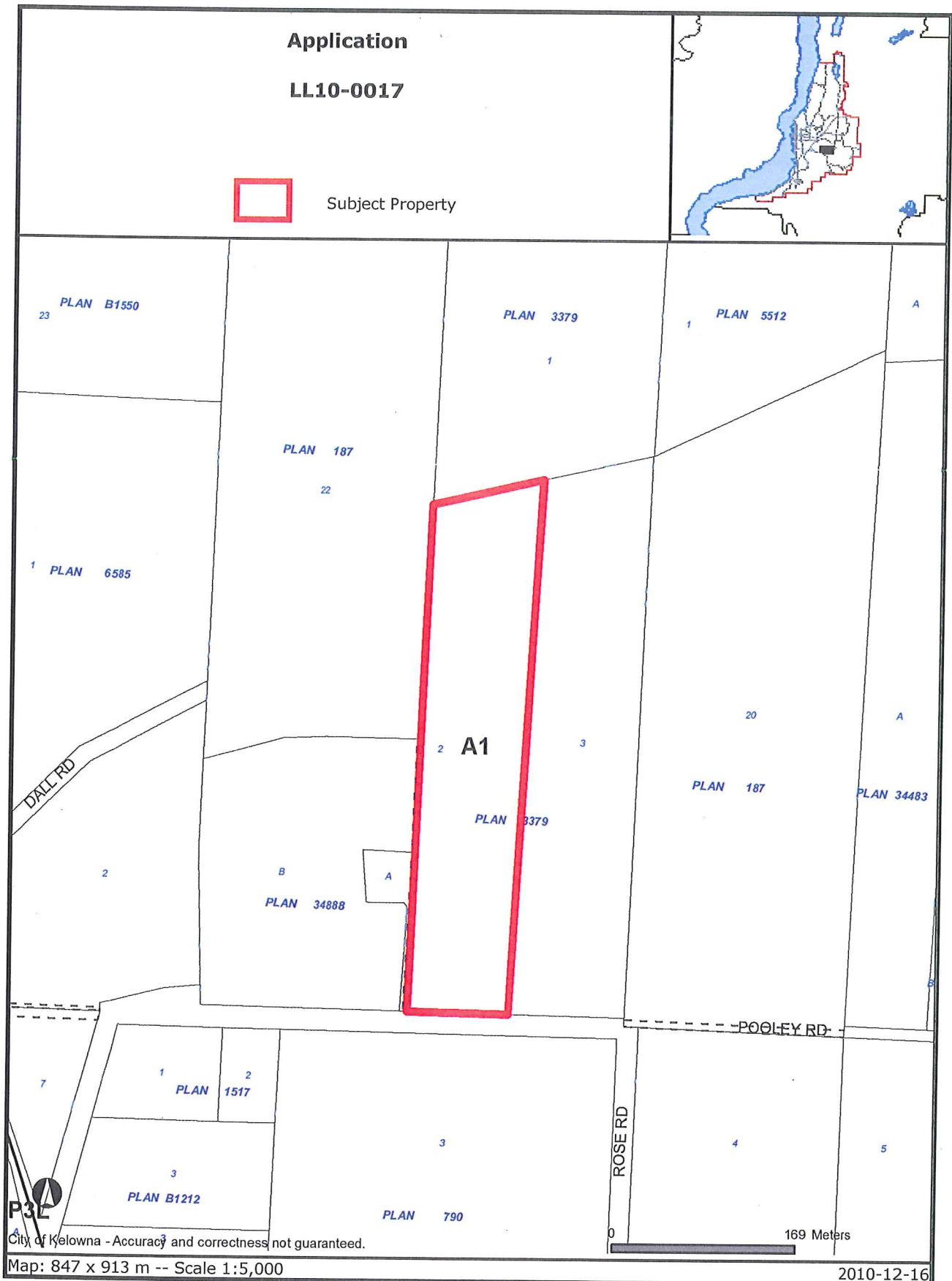
Site Plan

Applicant Letter of Intent (2 pages)

Information Bulletin Re: Liquor Manufacturing, Sales & Related Activities in the ALR

UNIVERSITY OF ALABAMA SYSTEM





*Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only.
The City of Kelowna does not guarantee its accuracy. All information should be verified.*



Special Event Areas (see site plan)

Wine Shop/Tasting Room

LL10-0017
3240 Pooley Road
Winery Special Event Area
Endorsement

VINEYARDS



LAWN ①

EVENT LOCATION

OUTDOOR LAWN AREA

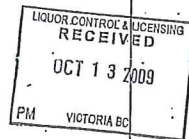
FENCED AREA

PRIVATE HOME

LAWN

ORCHARD

PRIVATE HOME



DECK EVENT LOCATION

INDOOR LAWN AREA

COURTYARD LAWN

EVENT LOCATION ③

WINERY MANUFACTURE

VINEYARD

DECK REMOVED FROM APPLICATION



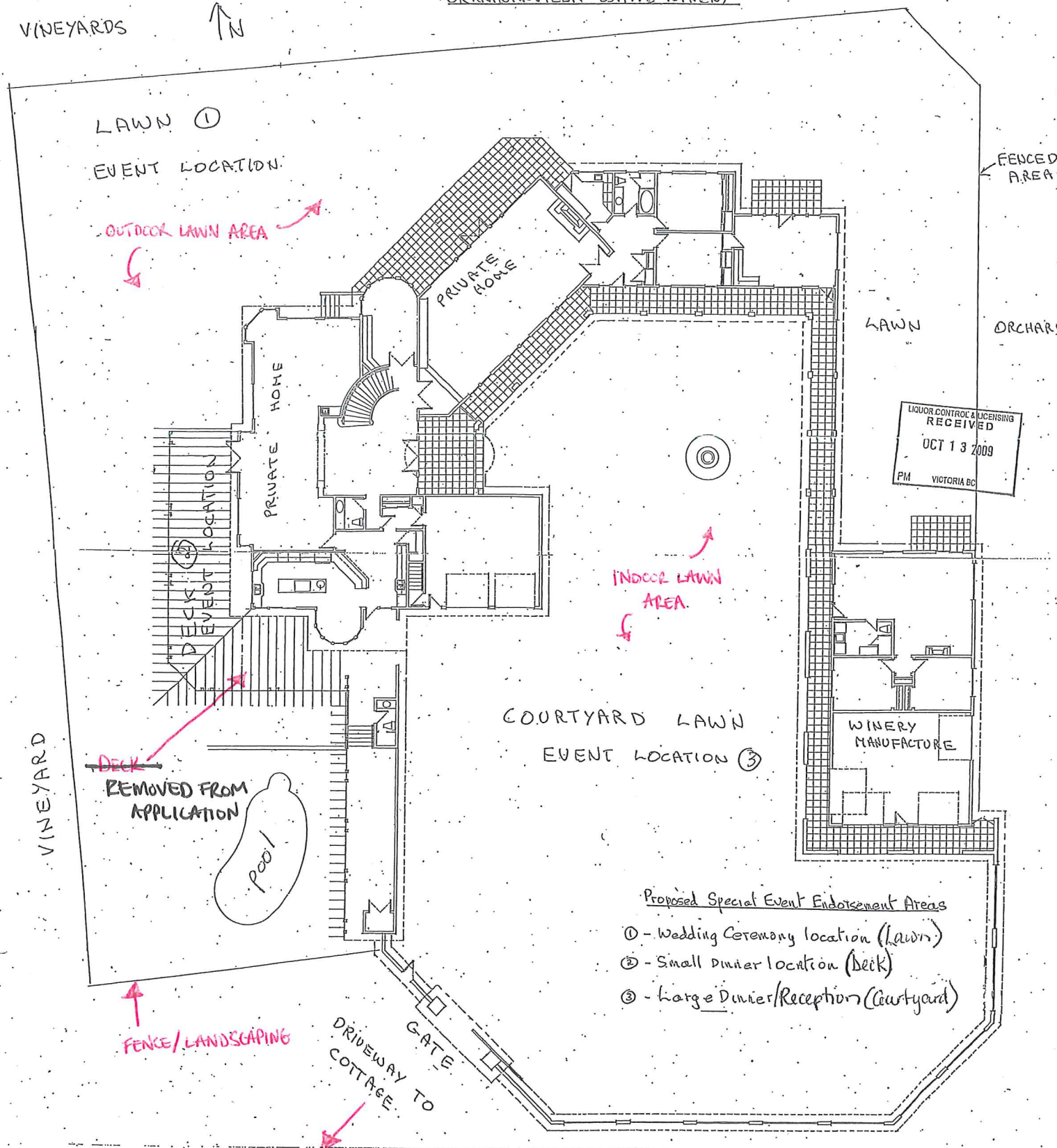
Proposed Special Event Endorsement Areas

- ① - Wedding Ceremony location (Lawn)
- ② - Small Dinner location (Deck)
- ③ - Large Dinner/Reception (Courtyard)

FENCE/LANDSCAPING

DRIVEWAY TO COTTAGE

GATE



WINERY LICENCE SPECIAL EVENTS AREA ENDORSEMENT

LETTER OF INTENT

This letter of intent replaces the original letter of intent dated Oct 13, 2009 which was presented to Council on Feb 8th 2011.

Background

The Okanaganville Vineyards and Events Corp (the "winery") is applying to the BC Liquor Licensing Board for an events area endorsement to the existing Liquor License. A requirement of this application is to obtain Local Government's prior support of the application.

The events area endorsement will allow the winery to sell BC wines by the glass within the areas specified within the hours specified., and replaces the requirement to obtain a Special Occasion License for every event.

On Feb 8th 2011, the winery submitted an application to Council for their support but did not receive their support. There were four objections cited in Council's decision and it is our intention to change our plans to address each of these. This letter of intent describes in detail our changes.

Overall Business Plan

The Winery no longer proposes to offer large wedding receptions on the property and has arranged to market another venue's banqueting services where these receptions will be held. This means that we will offer an afternoon Wedding Ceremony, which will be quiet, formal and of short duration, followed by a Champagne Toast in the enclosed Courtyard which be of one hour or so duration. Following the Ceremony and Champagne Toast at the main building, the guests will be shuttled by bus to the banqueting venue.

The Winery will offer small wedding receptions (50 people or less) on the lawn of the Tasting Room next to Pooley Rd, and wine consumption will cease at these events at 8pm.

The Winery will offer our facilities for cultural gatherings both at the main building and on the Lawn of the Tasting Room. As examples, we anticipate hosting after work social gatherings of the Kelowna Chamber of Commerce, The Variety Club Children's Charity Sponsors Dinner and other charities that might approach us.

We particularly wish to support and encourage local artists and musicians to join us regularly. We are firm believers that local art and light instrumental music enhances the quiet casual atmosphere we are promoting at our afternoon and early evening picnics on the lawns.

Hours of Operation

Our application now requests hours of operation from 11 am (the current opening time of our Tasting Room) until 8 pm, daily. We believe that the reduction in hours from the previous application (from 11pm to 8 pm) would be more appropriate to the quiet rural farming environment of the East Kelowna Bench.

Specific Areas covered by the Endorsement

Because of our change in focus away from Wedding Receptions, we have reduced the areas included in the endorsement application. The outside deck will therefore no longer be included as a specific area. This should considerably reduce the potential for any noise disturbing the property to the West which is within 200 ft of the deck. We believe that the elimination of the Deck as a specific event location together with the reduction in hours of operation to 8pm should significantly reduce the likelihood of noise being an issue for our neighbors to the West and those below the property on the Lower East Kelowna Bench

The areas included are now therefore

- 1) The outdoor lawn (event Location 1 at the North West corner of the property overlooking the vineyard) and
- 2) The courtyard lawn (event location 2 which is completely enclosed within the property by ten to thirty feet high walls) and
- 3) The Tasting Room Lawn (event Location 3 at the South East corner of the property 100 meters from Pooley Rd)

This area (3) coincides with the area covered by the existing License Picnic Endorsement but under the terms of that endorsement it must be “entirely open to the elements at all times”. We have therefore included this area in the Special Events Endorsement Application because our plan to host small wedding receptions will require an occasional tent in case of inclement weather.

Parking

We currently have four parking areas within the property that could be used for Special Events Parking

- P1) The compacted surface car park adjacent to the Tasting Room (approx 5,000 sq ft) has room for 20 cars plus two buses.
- P2) The grass area on the East side of the main driveway (approx 10,000sq ft) has room for 50 cars
- P3) The grass area on the West side of the main driveway (approx 5,000 sq ft.) has room for 25 cars
- P4) The grass area South of the main building (approx 5,000 sq ft) has room for approx 25 cars

It is highly unlikely that any event will have more than 150 people in attendance. We anticipate those attending the large wedding ceremony and Champagne Toast will be bused to and from the property. It is therefore unlikely that we will need parking for more than 100 cars and we have the capability to park 120 cars in the four formal car parking areas within the property boundaries.

We therefore believe that there is sufficient parking within the boundaries of the property to support any proposed special event and that it will not be necessary for our customers to park on Pooley Rd.

Summary

This letter of Intent is significantly different from the Oct 2009 letter submitted to Council on Feb 8th. While we were initially disappointed, we decided to use the experience to help us positively refocus our business plan to one that is more appropriate to the quiet local farming community that is East Kelowna.

We have eliminated the issue of noise from late evening wedding receptions by moving them downtown to a more appropriate venue. We have also eliminated the raised deck from the Events Area and reduced the proposed hours of operations in the evening from 11 pm to 8 pm. We believe we have adequately addressed the issue of parking, and hopefully reduced any concern our neighbors had with regard to parking and congestion on Pooley Rd.

We are fortunate to live and work in a wonderful quiet local farming community, and our very clear objective is to enhance that atmosphere not disrupt it.

It is precisely this quiet country garden experience that our customers come to enjoy, and the success of our winery depends upon us continuing to preserve it.

OKANAGAN VILLA PROPOSED ACTIVITIES 2011

- 1) Three afternoon wedding ceremonies at the North end of the Property (3pm to 6pm)
- 2) 2011 Okanagan Shakespeare Society production of The Merry Wives of Windsor (No amplification. Ends at 9pm)
- 3) live music on the tasting room lawn. Saturdays from 2pm-5pm

Maximum capacity 125.

We will actively discourage any on street parking by placing no parking signs on Pooley Rd and have large signs directing customers to the approx. 100 on property parking spaces.

The Vibrant Vine Tasting Room will normally close at 6pm each evening.

East Kelowna Residents will receive a 10% discount on all Vibrant Vine products and Winery and Garden Tour fees will be waived.

Contact Tony Lewis if you have any questions or if you would like to take part in our farmers market or would like to book an event at The Vibrant Vine.



PROVINCIAL AGRICULTURAL LAND COMMISSION

INFORMATION BULLETIN

Liquor Manufacturing, Sales & Related Activities in the Agricultural Land Reserve (ALR)

If you are applying for a liquor licence or a winery endorsement in the ALR, you must ensure you meet all requirements regarding land use in the ALR. This information bulletin explains the key requirements.

The Agricultural Land Commission (ALC) is responsible for administering the Agricultural Land Reserve (ALR) which is a provincial land use zone where agriculture is the priority use. The ALC's purpose as set out in the *Agricultural Land Commission Act* is to preserve agricultural land and encourage and enable farming. A person must not use ALR land for a non-farm use unless permitted by the Act, the regulation or an order of the Commission.

Wineries and Cideries

Wineries and cideries licensed by the Liquor Control and Licensing Branch (LCLB) are permitted in the ALR subject to specified criteria.

If you do not meet the criteria, you will need to submit an application for non-farm use to the ALC to request permission prior to establishing your winery or cidery. Information about the application process and application forms are available on the ALC website http://www.alc.gov.bc.ca/alr/Application_Landowner.htm

ALC regulation permits wineries and cideries if they meet the following criteria:

- At least 50% of the farm product (fruit) used to make the wine is produced on the farm on which the winery is located,

OR alternatively,

- the winery is located on a farm that is at least 2 hectares in size, and produces the fruit used to make the wine, and at least 50% of the fruit used to make the wine comes from a BC farm under a 3 year contract to provide fruit to the winery.

The farm on which the winery is located may be comprised of one or several parcels of land owned or operated by a farmer as a farm business.

For more information please refer to ALC regulation interpretation policies:

Wineries and Cideries http://www.alc.gov.bc.ca/legislation/policies/Pol3-03_Wineries.htm

Retail Sales http://www.alc.gov.bc.ca/legislation/policies/Pol2-03_FarmRetailSales.htm

Product Processing http://www.alc.gov.bc.ca/legislation/policies/Pol1-03_FarmProdProc.htm

Agri-Tourism http://www.alc.gov.bc.ca/legislation/policies/Pol4-03_agri-tourism.htm

Winery Endorsements and Stores

The following LCLB endorsements and stores are permitted in the ALR provided they are ancillary to the winery or cidery:

- Retail sales through an onsite store appointment
- Tour area endorsement
- Picnic area endorsement
- **Special event area endorsement**
- A lounge endorsement is only permitted if it meets the following ALC criteria*:
 - The interior lounge area does not exceed 125 square meters and the patio area does not exceed 125 square metres; or an approval of the Commission via application to exceed the areas.
 - Serves alcohol products produced on the premises in addition to food

*If you wish to proceed with a winery lounge, please contact the ALC to confirm that your plans meet the criteria prior to applying to LCLB.



PROVINCIAL AGRICULTURAL LAND COMMISSION

Distilleries, Breweries, and Meaderies:

The regulation does not permit breweries, distilleries or meaderies in the ALR, except in those cases where the ALC considers the manufacturing to be processing of a farm product. Otherwise, an application must be submitted to the ALC to request permission to locate in the ALR. Permission is also required to operate an on-site retail store. Please contact the ALC to discuss your proposal and seek advice regarding the process.

Food Primary and Liquor Primary Licences

If you are considering opening a restaurant, bar or pub in the ALR, they are prohibited uses and require an application for non-farm use and approval from the ALC in advance of applying for a food-primary or liquor primary licence from LCLB. Please contact the ALC to discuss your proposal and seek advice regarding the process prior to submitting an application to LCLB for a food primary or liquor primary licence.

For More Information

For more information on the Act, regulations and policies that govern ALR use, see the ALC website at www.alc.gov.bc.ca or call the ALC office at 604 660-7000.