



Corporate Report

NO: L010

COUNCIL DATE: November 7,

2005

REGULAR COUNCIL - LAND USE

TO: Mayor and Council DATE: November 4,
2005

FROM: General Manager,
Planning and Development FILE: 7905-0151-00

SUBJECT: Application for Inclusion of Property at 18588 - 2
Avenue in the Agricultural Land Reserve to Permit
the Development of a Farm-based Winery
(Application No. 7905-0151-00)

RECOMMENDATION

The Planning and Development Department recommends that Council authorize staff to forward to the Agricultural Land Commission (the "ALC") Application No. 7905 0151 00 for inclusion of the property at 18588 - 2 Avenue into the Agricultural Land Reserve (the "ALR") with a recommendation that the ALC deny the application and that the July 25, 2005 Planning Report, the Council resolution of July 25, 2005 and minutes of the delegation to Council of July 25, 2005 by the neighbours, also be included with the referral to the ALC.

INTENT

The purpose of this report is to provide information to Council, regarding dialogue between staff and the applicant that has occurred since July 25, 2005 and the requirements under the *Agricultural Land Commission Act*, S.B.C. 2002, c. 36 (the "Act") and associated regulations respecting the role of local government in reviewing ALR inclusion applications and to recommend that Council authorize staff to forward the ALR inclusion application for the property at 18588 - 2 Avenue to the ALC with a recommendation that the application be denied.

DISCUSSION

At the Regular Council - Land Use meeting, on July 25, 2005, Council considered a Planning report (Appendix "A") related to Application No. 7905-0151-00, which proposes to include the 2-hectare (5 acre) property at 18588 - 2 Avenue into the ALR for the purpose of allowing the development of a farm-based winery on the site. After considering the report, Council passed the following resolution:

"That Council refer the application to staff for consideration of Comprehensive Development Zoning".

Subsequent to the July 25, 2005 Council meeting, staff has met with the applicants to discuss their interest in pursuing a rezoning process for the subject site to allow a farm-based winery on the site. At that meeting, the applicants confirmed that they do not intend to pursue a rezoning application for the site and have requested that the City forward the ALR inclusion application to the ALC for consideration. The applicants have also approached the staff of the ALC with a request that the application be brought before the ALC for consideration.

Under Section 17(3) of the *Act*, an application by an owner of a lot to include the lot in the ALR must be submitted by the owner to the local government. Pursuant to that Section and Section 28 of the *Agricultural Land Reserve, Use, Subdivision and Procedure Regulations*, the local government is then required to forward the application to the ALC, along with any comments it wishes to express and any associated documentation it considers relevant.

The Legal Services Division has reviewed the subject application and has advised that the City must forward the subject application to the ALC for consideration, as per the provisions in the *Act* and the Regulations.

CONCLUSION

Based on the contents of the Planning Report related to this application (Appendix "A") that was considered by Council on July 25, 2005, staff recommend that Council authorize staff to forward to the ALC, Application No. 7905-0151-00, with a recommendation that the ALC deny the application and that the July 25, 2005 Planning Report, the Council resolution of July 25, 2005 and minutes of the delegation to Council of July 25, 2005 by the neighbours (Appendix "B"), also be included with the referral to the ALC.

Murray Dinwoodie
General Manager
Planning and Development

AGA/RCA/kms/saw

Attachments:

Appendix "A" - Planning Report of July 25, 2005

Appendix "B" – Delegation Minutes – Regular Council – Land Use - July 25, 2005

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City of Surrey
PLANNING & DEVELOPMENT REPORT
File: 7905-0151-00

Appendix "A"
ALR



Proposal: ALR inclusion pursuant to Section 17(3) of the ALC Act.

Recommendation: Denial

Location: 18588 - 2 Avenue **Zoning:** A-1

OCP Designation: Agricultural

LAP Designation: Agricultural **Owner:** Carlos and Leigh Lee



PROJECT TIMELINE

Completed Application Submission Date: June 24, 2005
Planning Report Date: July 25, 2005

The applicant is proposing:

- inclusion of the property at 18588 - 2 Avenue within the Agricultural Land Reserve (ALR) pursuant to Section 17(3) of the Agricultural Land Commission (ALC) Act

in order to permit the development of a farm-based winery.

The Planning & Development Department recommends that Council authorize referral of the application to the ALC with a recommendation that the ALC deny the proposed inclusion into the ALR.

REFERRALS

Engineering: The Engineering Department has no objection to the project subject to the completion of Engineering servicing requirements as identified in the attached (Appendix IV).

SITE CHARACTERISTICS

- **Existing Land Use** Vineyard.
- **East:** Single family dwelling and hobby farm, zoned A-1, designated Agricultural in the Official Community Plan (OCP).
- **South:** Single family dwelling and hobby farm, zoned A-1, designated OCP.
- **West:** Single family dwelling and hobby farm, zoned A-1, designated Agricultural in the OCP.
- **North:** Across 2nd Avenue, single family dwelling and hobby farm, zoned A-1, designated Agricultural in the OCP.

PLAN AND POLICY COMPLIANCE

OCP Designation: Agricultural. Complies.

LAP Designation: Agricultural. Complies.

DEVELOPMENT CONSIDERATIONS

Background & Neighbourhood Context

- The subject property is 2 ha (5 acres) in area, zoned "General Agriculture Zone (A-1)", and is designated "Agricultural" in the OCP. It is located on the south side of 2 Avenue between 184 and 188 Streets, and is surrounded by properties also zoned A-1 and designated Agricultural in the OCP, but not in the ALR.
- A vineyard has recently been planted on a portion of the property, with the intent of developing a boutique style farm-based winery on the site. A farm-based winery is not permitted in the A-1 zone, where the property is not in the ALR. The applicant is seeking to include the subject property into the ALR in order to allow the operation of a farm-based winery. The proposal includes a winery building with a caretaker suite and wine tasting room (Appendix III). A lounge is not proposed as part of the winery.
- Pursuant to Section 17(3) of the ALC Act, a property owner can apply to include a site to the ALR. The application for inclusion, by owner, requires local government input (i.e. comments from local government regarding the proposed inclusion), which are required to be forwarded to the ALC.

Farm-based Winery in the ALR

- The ALC Act permits a winery and ancillary uses such as tours, retail sales including wine tasting and food and beverage services (maximum of 125 sq.m. [1,345 sq.ft.] indoors and maximum of 125 sq.m. [1,345 sq.ft.] outdoors), on lands within the ALR, subject to one of the following two conditions being satisfied:
 - A minimum of 50% of the farm product for making wine/cider is grown on the farm on which the winery is located; or
 - A minimum of 50% of the total farm product used for wine/cider making is provided from a minimum 2 ha [5 acre] farm in British Columbia under a minimum 3 year contract.

- The ALC Act further prescribes that the use cannot be prohibited by any local government by-law but can be regulated.
- A "Farm-Based Winery", including wine tasting, requires a license from the Provincial Liquor Control and Licensing Branch. The issuance of such a license does not require public consultation. However, a food and beverage service lounge that serves wine for on-site consumption requires a licensing process that involves public consultation and local government input.

Planning Implications

- The Surrey Official Community Plan sets several goals and objectives for protecting agricultural land, promoting agricultural uses and enhancing the viability of a wide range of agricultural practices. Some of the relevant OCP policies state the following:
 - "Support and encourage agricultural, livestock and horticultural uses in the City and processing, production, distribution and sale of locally grown products."
 - "Support and encourage the growth of agri-industry and value added agricultural activities (such as the greenhouse and processing sectors) because of their importance to the agricultural economy of the City."
- Farm-based wineries have the potential to contribute to the agricultural production and provide a substantial added value. The applicant cites these policies, and the fact that the inclusion will add to the inventory of ALR land as justification for seeking inclusion to the ALR.

ALR Inclusion versus Rezoning

- Two options are available to the applicant to facilitate this proposal: Include the site in the ALR or rezone the site to a CD zone to allow a farm-based winery on a site specific basis.

Option 1: ALR Inclusion

- This option allows the possibility of *intensive agriculture* being undertaken on the property (i.e. animal confinement, mushroom growing) which has potential for a negative impact (such as smell, and noise) on the adjacent lands which are not in the ALR. (The existing A-1 Zone on the site allows intensive agriculture use if it is in the ALR.)
- This option will trigger requirement of buffer zones on adjacent lands which are not in the ALR in the event that the adjacent lands develop.
- This option will create small size (5 acres) ALR land which is disjointed from the rest of the ALR (Appendix VIII).
- This option shifts control of the change process and authority of regulating the land use from the City to the ALC.

Option 2: Rezoning to a CD Zone

- Rezoning the site to allow a farm-based winery gives the City the tools to regulate, under a CD By law, all aspects of the winery operation.
- Staff met with the applicant to discuss an optional approach to deal with this proposal. Due to time constraints related to the upcoming harvest season, the applicant has requested to proceed with the ALR inclusion approach.

Engineering Service Impact

- The Engineering Department has no concerns relative to the ALR inclusion, but would require the applicant to confirm the structural adequacy of 2nd Avenue for the proposed use (winery) and upgrade this road as required as a condition

of Building Permit Approval.

Agricultural Advisory Committee (AAC)

- The inclusion application was considered by the AAC on July 14, 2005, and the AAC resolved the following:

"that because the land does not adjoin Agricultural Land Reserve property, and would create an isolated piece of ALR land, Council recommend to the Agricultural Land Commission that the application be denied."

- In the discussion, the AAC raised several questions and issues, including: water supply; possible traffic; unsuitability of the land for the ALR; the need for buffering from adjacent lands; the amount of wine produced; and the option for the applicant to apply for a CD Zone to allow the winery instead of inclusion.

PRE-NOTIFICATION

Pre-notification letters were sent to surrounding property owners on June 6, 2005 advising of the proposed ALR inclusion and seeking comments.

- Following the pre-notification for the proposed ALR inclusion, staff received six (6) letters and two (2) petitions signed by 28 people, which expressed concerns about the proposed winery. The concerns raised include: increased traffic, noise impact from wine tours, environmental impacts to the creek nearby, impact on local water supply, residue and effluent from the wine processing, large scale fertilizer usage, and possible expansion of the winery in the future (Appendix VI shows the addresses where the letters and petitions were from. Some of the letters were not from the nearby property owners).
- Staff also received two letters in support of the proposed winery, one letter describing the high suitability of the subject property for growing grapes.
- In response to the concerns raised in the letters and petitions, the applicant provided a response, which is attached as Appendix VII.

PROJECT EVALUATION

The justification for approving the project are:

- The proposed ALR inclusion would add to the inventory of ALR land base.
- The proposed ALR inclusion would provide an opportunity to operate a farm-based winery that would contribute to the growth of agri-industry and value-added agricultural activities and tourism.

The justification for not approving the project are:

- The ALR inclusion will create an isolated piece of ALR land surrounded by non-ALR land (Appendix VIII).
- The proposed ALR inclusion was not supported by the AAC as the land does not adjoin Agricultural Land Reserve property.
- The ALR inclusion would result in allowing *intensive agriculture* (commercial agro-business, including confinement of animals and mushroom growing) on the subject site, which has potential for a negative impact on surrounding lands, which are not in the ALR.
- The OCP requires the establishment of buffers adjacent to ALR land, therefore, inclusion would create buffer zone requirements on adjacent lands, which are not in the ALR in the event they are ever developed.
- There is major concerns expressed by adjacent neighbours regarding increased traffic, noise, environment and land use incompatibility.

CONCLUSION

On balance, staff conclude that the negative impacts of including this property into the ALR out-weigh its advantages. Furthermore, staff is of the opinion that a rezoning process would be more appropriate to pursue in order to provide the City and the community greater control over the process and the proposed land use. Therefore, the Planning & Development Department recommends that Council forward this application to the ALC with a recommendation that the application for ALR inclusion be denied.

INFORMATION ATTACHED TO THIS REPORT

The following information is attached to this Report:

Appendix I.	Lot Owners, Action Summary and Project Data Sheets
Appendix II.	Contour Map
Appendix III.	Typical Floor Plans and Elevations for the Proposed Winery Building
Appendix IV.	Engineering Summary
Appendix V.	AAC Comments
Appendix VI.	Map Showing Addresses where Correspondence was Received
Appendix VII.	Applicant's Response to Concerns
Appendix VIII.	Existing ALR Boundary

INFORMATION AVAILABLE ON FILE

- Petitions against and Letters in Support and Against the Proposed Winery

Murray Dinwoodie
General Manager
Planning and Development

AGA/kms

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APPENDIX I

Information for City Clerk

Legal Description and Owners of all lots that form part of the application:

1. (a) Agent: Name: Carlos Lee
 Address: 12595 - 28 Avenue
 Surrey, B.C. V4A 2P2
 Tel: 604-538-3434

2. Properties involved in the Application

- (a) Civic Address: 18588 - 2 Avenue
- (b) Civic Address: 18588 - 2 Avenue

Owners: Carlos and Leigh Lee
PID: 017-623-545
Lot 1 Section 4 Township 7 New Westminster District Plan LMP 2605

3.

APPENDIX II

CONTOUR MAP FOR SUBJECT SITE















APPENDIX VII

Traffic

The proposed winery is a land-based winery governed by different laws than a commercial winery. Currently the area is zoned A-1 and as such agricultural traffic is expected, whether it is a farm, winery or any other agricultural application. A horse riding operation or even a fruit stand will attract as much or more traffic to the area.

Impact to the Neighbourhood

A first class winery, as proposed, will help the area in a positive way.

Noise from Wine Tours

No busload tours are planned to the site; however, if any tours are considered in the future, they will be specialized and limited to small paying groups. Even in the rare event of a tour, no noise is expected as all the tasting is indoors. Buses make less noise than farm tractors and are more environmentally friendly.

Street (2nd Avenue) is too Narrow

The street meets Surrey's standard road for agricultural use, which may include heavy tractors and farm equipment.

Environmental damage to the Class B Creek in the area

No pesticides or herbicides are proposed to be used in the vineyard, as it is entirely an organic operation.

Impact on the Surrounding Water Supply

The vineyard does not require irrigation. No harmful chemicals will be used in the vineyard or the winery. The operation is cleaner than a horse farm or sheep farm with no excretions into the soil. A cornfield or even a strawberry field will have more impacts on the water supply.

Residue and effluent from the processing plant

The winery is NOT a processing plant. Grapes are crushed, filtered and stored. The only residue is the skin of the grapes, which are properly composted.

Chemical used in the processing

The winery is not a distillery and therefore no harmful chemicals are used. There are no chimneys or pollutants contaminating the water or the air. Certain chemical ingredients are added to the wines at different stages of the fermentation but they are not discharged nor dispersed. Absolutely no bleach components are used in the winery, as they are harmful to the wines.

Large-scale fertilizer use

There is no fertilizer use, as the winery is an organic operation. Whereas a farmer could opt to use fertilizers if he/she chooses to, and under the A-1 zoning it is completely within his/her right to farm, the winery guarantees that this will not happen, further benefiting the neighbourhood by eliminating any risk of this happening under a different application.

Possible expansion of the business in the future.

No expansions to the business are anticipated at this time. However, in the event of this happening, it will be handled in a lawful manner with the proper authorizations from the city and/or the Province.



Appendix "B"

Regular Council – Land Use
July 25, 2005

Delegations

- 2. Dr. R.C. (Chas) Povey**
On behalf of Residents
File: 6880-20-75; 0550-20-10

Dr. R.C. (Chas) Povey, on behalf of residents was in attendance to express concerns regarding a proposal to allow construction of a winery at 18588 2 Avenue.

The following comments were provided:

- He can see the role of wineries in encouraging tourism, if situated at the right location.
- He submits that the proposed winery is not in the right location because of environmental and community issues.
- The applicant suggests an initial production phase of 6,000 cases of wine or 72,000 bottles which is not an insignificant amount.
- There will be adverse impacts on waste disposal and water use.
- Allowing a winery on site is somewhat open ended as there are procedures to be followed; once those procedures are followed, the application should come back to Council for due consideration.

Councillor Tymoschuk left the meeting at 6:12 p.m.

- He suggested the application be denied and noted the application should be forwarded to the ALC, noting the applicant cannot go to the ALC without Council approval.
- He represents 33 residents in 17 households or 80% of the neighbourhood.
- He noted that 100% of the residents on 2nd Avenue are not an insignificant group of people.
- The property is only five acres in size; the community has no problem with grape growing but there are issues with a winery.
- The bulk of the grapes would have to be trucked in.
- There would be environmental issues as the fish habitat stream would experience direct runoff from this property and any use of herbicides, pesticides, and fungicides would be a concern.
- Definitions of organic wines are varied.
- The neighbourhood group's offers to meet with the applicants to discuss the concerns were refused.