
MEETING TYPE: Special Council Meeting
MEETING DATE: Monday, July 18, 2022
AUTHOR: Jared Kassel, Director of Planning & Development
DEPARTMENT: Planning and Development
ITEM TITLE: O'Rourke Family Vineyard and Direct Control 13 Zone Update
DESCRIPTION: To update Council regarding items related to Direct Control District #13

OPTIONS

For information only.

EXECUTIVE SUMMARY

Since 2019, the District of Lake Country has been pursuing the establishment of a Direct Control (DC) zone for the 17 subject properties. This process has involved communicating with the owners of O'Rourke Family Vineyards (ORFV) and their authorized representatives to relay requirements for District of Lake Country land use, development and building regulations, as well as monitoring ongoing site planning and construction activities. On June 1, 2021, Zoning Amendment (Z2020-004) Bylaw No. 1156, 2021 DC-13 Zone was presented to Council for First Reading. At this meeting Council adopted Resolution 1.06.131 to identify 12 items that required further work and information prior to Second Reading. These items included:

1. an updated traffic study;
2. an economic assessment including lifecycle costs and cost-benefit analysis;
3. a Council site tour;
4. a park/trail dedication through Area D to Crown lands beyond in the vicinity of 'Glacier Glade', especially to land-locked parcels to the northeast of the subject property;
5. the exclusion of Area C from the DC-13 zone;
6. to address ALR buffers (especially as referenced by the Ministry of Agriculture);
7. the consideration of a multimodal frontage path on Carr's Landing Road;
8. the clear identification of location of farm worker, agritourism and tourism accommodation;
9. a demonstration of an adequate amount of land for sewage disposal for the proposed uses;
10. removal of invasive species and revegetation of the slopes along Carr's Landing Road;
11. further information on mitigating the effect of the access roads on the neighboring properties, specifically 15575 Commonage Road, to reduce the impact of development on that property and neighboring properties; and
12. a Stormwater Management Plan.

In May 2022, Administration contracted Brigid Reynolds (a Registered Professional Planner) from Compass Rose Planning Services Ltd. to expedite progress on the file and to assist with addressing the 12 items listed above, with the goal of bringing back DC-13 to Council for Second Reading, and ultimately a Public Hearing and final approval.

KEY INFORMATION

Updated information related to each of the 12 items identified by Council is as follows:

1. Traffic Study – The District of Lake Country engineering staff have provided ORFV with the study's Terms of Reference, as well as the District's background traffic modelling information for Carr's Landing Road,

Commonage Rd, Okanagan Centre Rd (East and West). ORFV's has hired a consultant, McElhanney Engineering, and is proceeding with modelling and the drafting of the technical report. The draft report is anticipated to be completed by mid or late July.

Align Engineering, on behalf of the District of Lake Country, is undertaking a Carr's Landing Road Review, including an analysis related to the impacts of traffic entering and leaving the subject properties, Commonage Rd intersection and Barkley and Okanagan Centre Roads east/west. Traffic modelling for this project will include future land uses on the subject properties.

2. Economic Assessment – Staff has internally discussed preparing Terms of Reference to help determine the economic outcomes related to the ORFV development, specifically with respect to jobs. Previous Council direction included engaging a consultant to undertake the economic study, all at the owner's expense. However the scope for analyzing the project economics is relatively limited as most of the infrastructure (except for the roadways in the area) required for the development is privately constructed and will be maintained by ORFV. ORFV's has committed to assist with upgrades to the local public road network for traffic and multi-modal transportation. Therefore, staff is seeking further clarification from Council regarding the scope of the economic analysis.

The Utilities Department notes that the existence of an independent privately-run on-site septic system on the ORFV site may compromise the ability of the District to extend community sewer facilities to the Carr's Landing area. The utility system-focused analysis of this impact has not yet taken place.

3. Council Site Tour – a Public Information Meeting was held on July 29, 2021 by ORFV. Some members of Council and staff attended the July event and received a tour of the facility. However, as it was an open house format there are no formal minutes from that event.

Staff is seeking clarification from Council regarding whether this requirement has been satisfied, or whether all members of Council should collectively attend a formal site tour.

4. Park/Trail Dedication through Area D – ORFV has committed to dedicating a 5.0-meter-wide statutory Right-of-Way for a public trail along the north and west boundary of the subject lands with the purpose of connecting to Crown land directly west of the ORFV property, as illustrated in Attachment #1.
5. Exclusion of Area C – Staff is seeking clarification from Council regarding whether to exclude Area C from the DC-13 zone. Area C is unique in its land character (and therefore requires special land regulations) in that it consists of three (3) lakefront lots owned by ORFV (see Attachment #3). The combination of proposed land uses include existing residential (single family dwellings with associated secondary suites), tourist accommodation within the existing dwellings, 2 cabins, 3 private docks, and a small vineyard. The land uses are intentionally integrated into the vineyard outdoor environment from the edge of Okanagan Lake to the winery above. Further development of Area C is limited by the required riparian setbacks from the lake, as well as topographical constraints.

ORFV has indicated their intention to use these existing docks for future commercial use. These docks were granted approval by the Province for private use and Council granted variances related to the docks design. The foreshore area is zoned W1 - Recreational Water Use and permits one private dock per property. The Province requires a 'Commercial License of Occupation' prior to these docks being used for marine commercial uses and the zone would have to be amended to permit their commercial use. ORFV is working to confirm the extent and intensity of the future proposed commercial use for this area.

The vineyards planted within these three parcels are agricultural uses per the Zoning Bylaw and are not permitted in the Rural Residential 2 zone district. ORFV hopes to have agricultural uses permitted in Area C, and therefore a rezoning will be required whether or not Area C is excluded/included in the DC-13 zone.

6. ALR Buffers – The Ministry of Agriculture referral response in 2021 identified that any non-farm uses which may negatively affect the neighboring ALR properties be located outside of a minimum 30 meter-buffer from the property boundary. Staff notes that there are only two (2) property boundary segments of moderate length that are adjacent to ALR properties and within the proposed DC-13 lands (see Attachment #3 for more details).

These boundary segments include:

- the southern border of DC-13, which is approximately 292 meters in length and is currently being farmed as part of the overall agricultural holdings for the vineyard and is contiguous with ORFV-owned agricultural land on both side of this property boundary. The Ministry recommends a 15-metre vegetative buffer be installed along the property line. However, this area is currently planted with grape vines.; and,
- the frontage of Area C east of Carr’s Landing Rd, which includes the 24.5-meter wide (approximately) road Right-of-Way as part of the agricultural buffer. The Ministry recommends a 7.5-metre vegetative buffer be installed along the property line. However, an access easement runs parallel to the property line and is adjacent to the Carr’s Landing Rd ROW and a large area is planted as a vineyard.

Staff will seek clarification from the Ministry of Agriculture given the recommended buffer areas are already under active agricultural use.

7. Active Transportation (AT) Improvements on Carr’s Landing Road – The District of Lake Country is currently undertaking an overall transportation review for the broader community of Carr’s Landing, of which the subject lands of the ORFV are included in the study area. AT improvements on Carr’s Landing Road between Commonage Rd south and Commonage Rd north are contained within the 5-Year Capital Plan for design in 2024 and construction in 2026.

ORFV has stated that the drainage works constructed at the base of the slope between the vineyard and Carr’s Landing Road prevents the establishment of a multi-modal pathway along the road right-of-way, and that the pathway would be inconsistent with the remainder of Carr’s Landing Road and therefore is not needed.

The Traffic Study identified in Item #1 above will review the adequacy of the Carr’s Landing Rd. ROW for infrastructure improvements/upgrades for Active Transportation.

8. Location of farm worker, agritourism and tourism accommodation – ORFV has not yet provided the details including locations for the future proposed dwelling/accommodation types.

Table No. 1 – Existing and Proposed Uses by Area¹

CURRENT USES	ADDITIONAL PROPOSED FUTURE USES
AREA A	
Agricultural production and winery including winery production, restaurant, administration, storage/distribution, event space, amphitheater, wine tasting spaces, wine club (owner’s house) (4 Short Term Rentals - STR) (#01), gratitude point, tunnels, associated facilities, offices, and service & utility spaces <ul style="list-style-type: none"> • Access area to the north is treed and not currently in production. 	Main access with gatehouse <ul style="list-style-type: none"> • Access drive to be paved • Gated/controlled access

¹ The number in brackets (#0X) reflect building numbers on the site plans in the four attachments.

<ul style="list-style-type: none"> Garage/service utility building – van/golf cart parking, laundry, washrooms and 4 (STR) bedrooms with ensuite on 2nd floor (#01) Two existing single detached dwelling units: <ul style="list-style-type: none"> A-frame house 5 STRs or rented as whole Dwelling Units (#02) Log house 6 STRs or rented as whole DU (#03) <p>Infrastructure</p> <ul style="list-style-type: none"> Tent structure for gravel/concrete. This will remain to be used for vineyard storage and vehicle maintenance (#04) Concrete plant is temporary and will be removed at the end of the construction. (#20) 	
AREA B	
<p>Non-contiguous area and not suitable for production and is envisioned for tourist accommodation</p> <p>Three existing single detached dwellings:</p> <ul style="list-style-type: none"> Veranda DU (west) long-term rental (LTR) (#05) Knoll DU (west) long-term rental (#06) Care DU (east) long-term rental (#07) <p>Infrastructure</p> <ul style="list-style-type: none"> Water reservoir (east) (#08) Stormwater retention (west) 	<p>Tourist accommodation</p> <ul style="list-style-type: none"> 20 STR units (west) 20 STR units (east) <p>Exact location and structure design to be determined. Not shown on site plan.</p> <ul style="list-style-type: none"> Veranda DU 7 STR (#05)
AREA C	
<p>Waterfront lots</p> <ul style="list-style-type: none"> Beach DU long-term rental/worker housing (#16) Seasonal cabins long-term rental – need renovation (#17 & #18) Boat house – wine tasting space (#19) Three docks Vineyard 	<ul style="list-style-type: none"> Commercial use of existing private docks and cabins ORFV would like visitor vessels and to shuttle guests to the winery. The Boat House (#19) is suitable for small gatherings. <p>The intent is that the docks and cabins would be used by invitation only. Exact long-term plans for this area are not fully developed.</p>
AREA D	
<p>East of Barkley Road – Service Area</p> <p>Residential Uses</p> <ul style="list-style-type: none"> Van Tassel DU long-term rental (#12) Staff accommodation DU long-term rental (#09) Construction worker housing/ temporary trailers (#21). Removal or repurpose is TBD. <p>Storage Buildings</p> <ul style="list-style-type: none"> Four existing buildings includes riding barn (#10, #11, #13, #14) Wine storage building under construction (#15) <p>Infrastructure</p> <ul style="list-style-type: none"> Gravel pit (#20) 	<ul style="list-style-type: none"> Staff accommodation DU-12 temporary foreign workers (#09) ORFV may consider creating a children’s camp or similar. If this proceeds it is anticipated within a five-year window. This may also require residential uses to be established possibly using the trailers or other structures.

- Septic field (#22)

Table No. 2 - Number of Long Term Rental (LTR) and Short Term Rental (STR) Units

Area	Building #	Building Name	Existing Use	Future use
A	01	Owner's House	n/a	4 STR
A	01	Service Utility / Gate House	n/a	4 STR
A	02	A-Frame	5 STR	5 STR
A	03	Log House	6 STR	6 STR
B	05	Veranda House	1 LTR	7 STR
B	06	Knoll House	1 LTR	1 LTR
B	07	Care House	1 LTR	1 LTR
B		West Area B	n/a	20 STR
B		East Area B	n/a	20 STR
C	16	Waterfront House	1 LTR	1 LTR
C	17	Seasonal Cabin	1 LTR	1 LTR
C	18	Seasonal Cabin	1 LTR	1 LTR
D	09	Staff housing	1 LTR	12 temp foreign workers
D	12	Van Tassel house	1 LTR	1 LTR
D	21	Construction worker trailers	Unsure	Children's camp

9. Sewage Disposal – Under the District's Subdivision and Development Servicing Bylaw No. 1121, the Agricultural 1 Zone (A1) allows development to be serviced with an independent water source and private on-site sewage treatment system. However, all DC zones are required to be serviced by community water and sewer systems, according to the SDS Bylaw No. 1121 (Table C-1).

Furthermore, Section 9.3.4(c) of the OCP states that *"The creation of new privately-run sewage treatment facilities will not be supported, even in areas where the municipal sewer system does not currently exist"*. Staff recognize that the private on-site septic system that has been constructed has the capacity to handle the sewage treatment needs of the ORFV development. Interior Health (IH) in their referral response recommend obtaining written confirmation from a qualified Professional Engineer and the appropriate Provincial governing authority that the constructed system is suitable for the proposed development, and that approvals are in place by the authorized governing agency.

ORFV has provided the District with IH's acceptance (9/18/2020) of the applicant's Letter of Certification for the on-site sewerage disposal system. IH's acceptance letter references property roll nos. 01747.080, 01747.130 and 01758.012 for the following uses: winery, restaurant and four residential suites. District staff note that these uses do not cover all future proposed uses for the ORFV development, therefore future IH approvals will be required.

10. Invasive Species along Carr's Landing Road – There is considerable distribution of Tree of Heaven (*Ailanthus Altissima*) along Carr's Landing Road on the subject properties' frontage as well as beyond.

ORFV has confirmed they will be removing the invasive plants on the frontage of these subject properties in July/August 2022.

11. Mitigation of traffic impacts to neighbouring properties - Access to the winery is currently provided via a gravel driveway from Commonage Road, established by Access Permit no. A2019-047. This access to the winery runs from north to south, east of and parallel to the rear lot line of 15575 Commonage Road at a distance ranging from approximately 12 to 24m from the residential driveway on that lot (see Attachment #2 for more details). The vertical separation from neighbouring dwelling and driveway at 15575

Commonage Rd and the winery access is significant. Undisturbed natural landscape remains between the property line and the access road. The owners of 15575 Commonage Road have installed extensive fencing along the shared property boundaries and there may be an opportunity to extend that fencing to add to the physical separation between uses. ORFV has not provided any additional information that may be relevant to Council's consideration of the impact of each of the proposed residential and DC zones uses.

A condition of the access permit is that the access road be paved. ORFV has confirmed that the access road will be paved, an access gate installed, and landscaping planted once the main winery/event center construction is completed.

Engineering staff have stated that dust continues to be an ongoing nuisance for neighbors and recommends a dust control plan be prepared and submitted to the District and that regular and ongoing dust management be undertaken.

12. Stormwater Management Plan (SMP) – A Stormwater Management Plan consistent with Bylaw No. 1112, Schedule M is required to be submitted. Engineering staff have confirmed that an SMP was submitted to the District in 2015. This SMP was prepared by PROTECH Consulting and focused on the land clearing activities, vineyard planting and related storm flows. This SMP did not include any detailed discussion or analysis on the proposed buildings, structures and related impervious areas. Therefore, an updated SMP is required to be submitted.

ORFV understands they must work with their engineering consultant and the District's Engineering Department to complete the updated SMP. Future approvals from the District of Lake Country will trigger the update to the SMP.

BACKGROUND/HISTORY

Council adopted Official Community Plan Amendment Bylaw 928, 2015 and Zoning Amendment Bylaw 929, 2015 (OCP2015-001 and Z2015-002) amending the OCP and Zoning Bylaw to rezone 12 properties from Rural Residential 1 (RR1) and Rural Residential 2 (RR2) to Agriculture 1 (A1). Since then, five lots have been added to the O'Rourke land holdings. These five lots are also a mix of RR1 and RR2 zoned lands.

The ORFV land holdings are divided into four areas based on the existing and future proposed uses and topography. More detailed descriptions are located above in Tables 1 and 2.

Some of the new buildings and structures have been issued building permits while others have not. The issuance of some of the Building Permits are pending a Direct Control zoning amendment and Development Permit approval.

APPLICABLE LEGISLATION AND POLICIES

1. Official Community Plan Bylaw 1065, 2018

OCP Map No. 1 establishes Future Land Use Designations for lands throughout the District. The subject properties have a mix of land use designations: Agricultural and Rural Residential. The designation for the Rural Residential properties must be amended to Agricultural.

2. Zoning Bylaw 561, 2007

Some of the proposed uses are not consistent with the Zoning Bylaw. For example, agri-tourism accommodation and tourist accommodation definitions and regulations differ from how these short-term accommodations will function. These details will need to be further elaborated on through the proposed draft DC-13 zone.

3. Subdivision and Development Servicing Bylaw 1121, 2020

All works required in this bylaw apply to owners to make an application for subdivision or development in the District.

As noted above there are various elements of this development that require consistency with Bylaw No.1121. These elements include the SMP, onsite sewer servicing. Section B.10 of the SDS Bylaw details variance procedures to this bylaw.

IMPACT ON INFRASTRUCTURE OR MUNICIPAL SERVICES

Sewer Servicing

An on-site sewer servicing filing has been received per the Sewerage System Regulation (SSR). The Interior Health referral response (10/16/2020) recommends DLC get confirmation from an Authorized Person per the SSR that there is adequate land area suitable for sewerage servicing (primary and back up areas) to accommodate all allowable uses.

As noted above ORFV has provided the District with IHA's acceptance of the on-site sewerage disposal system. However, IHA's acceptance letter references property roll nos. 01747.080, 01747.130 and 01758.012 for the following uses: winery, restaurant and four residential suites. District staff will seek further information regarding how wastewater for the future proposed uses will be treated.

Table C-1 Servicing Requirements in Bylaw No. 1121 states that Onsite Sewerage systems are not permitted for Direct Control zones, and therefore a variance to the SDS Bylaw will be required.

Water

Interior Health issued Construction Permit No. CP2020-103615 for a new water supply system on September 18, 2020, based upon the submitted engineered drawings and schematics prepared by PROTECH Consulting. The water supply provides fire protection, irrigation, and domestic supply. The domestic water system is proposed to serve the winery, two residential connections, with a maximum population of 300 persons within a 24-hour period. The Permit notes that it's possible for additional future connections including a 20-unit resort (7 persons/unit). The Permit includes five requirements that must be met for the ORFV Water System to be fully functioning. Covenants are registered on the title regarding the water supply system.

Interior Health has confirmed that an Operating Permit for this water supply system has been issued, however the District staff note that a water supply system hasn't been approved by the District and therefore it is not known whether it meets the SDDS Bylaw requirements (no engineering application has been received, nor approved).

Roads

A condition of the 2018 rezoning from Rural Residential to Agriculture was that ORFV enter into a Servicing Agreement and provide security for construction of off-site road improvements, including but not limited to construction of improvements at the intersection of Carr's Landing and Commonage Roads to improve site lines and traffic mobility. ORFV acquired the additional ROW necessary and subsequently dedicated it to the District of Lake Country, in order for these improvements to proceed. ORFV has provided preliminary construction drawings which have been reviewed by the Engineering Department. For the improvements to be undertaken ORFV must submit 100% design drawings for consideration of Construction Approval. The construction of these intersection improvements will need to be coordinated with future road improvements including any active transportation elements (Staff notes that there currently is no trigger or deadline for ORFV to complete these road improvements).

Access

Accesses are governed by the District's Highway Access and Driveway Regulation Bylaw 628-2007. Given the scope and scale of the ORFV holdings and future development plans, Engineering staff recommend a master plan be prepared outlining access points onto District rights-of-way as well the internal road network. This comprehensive assessment will assist the District with future planning and is critical for emergency responders to understand the uses and buildings on the site and their locations.

IMPACT ON STAFF CAPACITY AND FINANCIAL RESOURCES

Regular staff time has been used to prepare this report. Compass Rose Consulting has been engaged to represent the District of Lake Country in discussions with ORFV, and the drafting of the DC-13 bylaw.

CONSULTATION AND COMMUNICATION

This report has been prepared in consultation with ORFV. As noted above additional public consultation is necessary pursuant to the *Local Government Act* and OCP Section 22 Development Approval Information.

Respectfully Submitted,

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This report has been prepared in collaboration with:

Tamera Cameron, Manager of Planning

This report has been prepared in consultation with the following:

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Attachments

A.	Site Plan #1 (Overall)
B.	Site Plan #2 (Areas A & B)
C.	Site Plan #3 (Areas A & C)
D.	Site Plan #4 (Area D)