



July 27, 2022

File: 0280-30

Local Government File: C2022.010 - ZONE

Shannon Duong, Planner II  
Regional District of Okanagan-Similkameen  
Via Email: [planning@rdos.bc.ca](mailto:planning@rdos.bc.ca)

Dear Shannon Duong:

**Re: Zoning Amendment from AG1 to AG1s for the Subject Property (PID 004-057-929).**

Thank you for providing Ministry of Agriculture and Food (ministry) staff the opportunity to comment on a site-specific zoning amendment from AG1 to AG1s, intended to allow an accessory dwelling unit larger than 125m<sup>2</sup> at 4120 Black Sage Road (Subject Property). Ministry staff offer the following comments:

- If the existing dwelling is to be decommissioned as stated in the application materials, then although the Okanagan Valley Zoning Bylaw will consider the dwelling to be an accessory dwelling due to it being built above the winery/bakery building, ministry staff would consider that it would be the principal dwelling on the parcel. As the dwelling will be under 500m<sup>2</sup>, it will likely be consistent with the Agricultural Land Commission Act (ALCA) and Regulations.
- The applicant plans to utilize the existing footprint of the tasting/bakery building with the aim of reducing the impact to arable land on the Subject Property.
- If the intent is for the applicants to keep living in the existing dwelling while constructing the new dwelling, this will require a non-adhering residential use (NARU) approval from the Agricultural Land Commission (ALC). Ministry staff recommend that the applicant contact ALC staff to discuss the requirement for this application.
- We note that the application materials mention that a bakery currently exists on the site and that the intention is to move the bakery into the new building. As the property is in grape production, it seems unlikely that the bakery is consistent with the Agricultural Land Reserve (ALR) Use Regulation, that requires at least 50% of the farm products used in processing to be from that agricultural land. As such, the bakery will likely require a non-farm use approval. We were unable to determine if

the applicants have previously applied for and received ALC approval for this non-farm use. We recommend that the applicants contact ALC staff to discuss the requirement for this application.

- Ministry staff also note that the AG1 zone does not permit bakeries, in line with the ALCA and Regulations, and that the proposed zoning amendment also does not appear to allow a bakery. It was unclear in the application materials how this discrepancy will be handled.
- Ministry staff are concerned that the advice to amend the Okanagan Valley Zoning Bylaw (as stated in our referral response dated February 28, 2022) to make the accessory dwelling unit size consistent with the 90m<sup>2</sup> stipulated by the ALR Use Regulation for lots less than 40 ha, and to only allow them on lots where the principal dwelling is less than 500m<sup>2</sup>, appears to have been disregarded. This lack of consistency can lead to confusion for applicants and RDOS staff as to what types of application will be required for certain proposals and may be inconsistent with the s.46(4) of the ALCA. In order to avoid any future misunderstandings or the risk that the bylaw could be declared of no force and effect with regard to the inconsistency, we strongly recommend that the Okanagan Valley Zoning Bylaw be amended in line with the comments of both ministry and ALC staff.

Please contact ministry staff if you have any questions regarding the above comments.

Sincerely,



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