



**City of Richmond**  
Planning and Development Department

**Report to Committee**

To: Planning Committee

Date: December 22, 2011

From: Brian J. Jackson, MCIP  
Director of Development

File: 08-4040-01/2011-Vol 01

Re: **Farm Based Wineries – Possible Options for Zoning Regulation**

**Staff Recommendation**

That Bylaw No. 8860, to amend the definition of “farm-based winery” and to include specific use regulations limiting their size, be introduced and given first reading.

Brian J. Jackson, MCIP  
Director of Development

BJ:mm  
Att.

**FOR ORIGINATING DEPARTMENT USE ONLY**

REVIEWED BY TAG

YES



CONCURRENCE OF GENERAL MANAGER

## Origin

On January 5<sup>th</sup> 2010, Planning Committee made the following amended referral with regards to farm-based wineries:

*That Staff:*

1. *Investigate potential restrictions on future wineries including (a) the necessity of rezoning and (b) the grandfathering of existing wineries;*
2. *Examine the difference between predominantly farm-based wineries and commercial wineries; and*
3. *Explore how farm-based wineries comply with regulations if accessory uses are pursued by owners.*

In response to this referral, the issue was brought to the AAC for preliminary review at its October 13, 2010 meeting where the following recommendation was made:

*That the AAC:*

- *Support existing regulations (City and ALC) for farm-based wineries operating on agricultural land.*
- *Request that all developments permitted in the zoning and ALC regulations involving farm-based wineries on agricultural land be forwarded to the AAC for review.*
- *Request further research on the operation of Lulu Island Winery to determine whether the business operates as a farm-based or commercial winery and report back to the Committee.*

To gain more guidance from the farming community, the issue was again brought to the AAC on December 8, 2011 for specific comments where the following recommendation was made:

*The AAC forward the following comments on farm-based wineries to assist in the development of regulations:*

- *Consider 1,000 sq.m (10,764 sq.ft.) the maximum building area for a farm-based winery facility, which would include all principal uses (winery processing and storage) and accessory uses (retail, tasting rooms, lounge – indoor only); and*
- *Request that City staff examine a size limitation ratio that links parcel size to maximum total winery area.*

At this meeting, as the AAC also noted that they wanted to be informed of the proposed bylaw approach to limiting the size of farm-based wineries. This report and proposed Bylaw 8860 will be forwarded to AAC committee members after Planning Committee on January 17, 2012 and before a possible public hearing.

## Purpose

This report is being forwarded to the Planning Committee for a recommendation on proceeding with an amendment to Zoning Bylaw 8500 to amend the definition of “farm-based winery” and include a general regulation by limiting the floor area of farm-based wineries to the lesser of either 1000m<sup>2</sup> or a floor area ratio of 0.05.

## Findings of Fact

Wineries located within the Agricultural Land Reserve (ALR) are regulated by both the Agricultural Land Commission and municipal zoning regulations.

### *Agricultural Land Commission (ALC) Act*

The *Agricultural Land Reserve Use, Subdivision and Procedure Regulation* under the *ALC Act* provides the basis for allowing wineries and ancillary uses in the ALR as follows:

- “Farm-based wineries” means a BC licensed winery or cidery in which wine or cider is produced and offered for sale made from farm product in one (1) of two (2) formats:
  - “Class 1”: At least 50% of the farm product is grown on the farm on which the winery/cidery is located (for wineries that generate farm product on-site); or
  - “Class 2”: The farm that grows products used to produce wine or cider is more than 2ha (5 acres) in area and at least 50% of the farm product for processing is provided under a minimum 3-year contract from a farm in BC (for wineries that have limited to no generation of product from on-site crops).
- “Ancillary uses” are also permitted in conjunction with a farm-based winery as follows:
  - Processing and storage;
  - Retail sales with no limit in area (if only retailing farm products produced on-site). If retailing a mix of farm and non-farm products, a maximum of 300 m<sup>2</sup> (3,229 sq. ft.) retail area applies;
  - Tours; and
  - A food and beverage service lounge with a maximum indoor seating area of 125 m<sup>2</sup> (1,350 sq. ft.) and maximum outdoor seating area of 125 m<sup>2</sup> (1,350 sq. ft.).

### *Richmond's Zoning Bylaw*

Richmond's *Zoning Bylaw 8500* defines and allows “farm-based winery” and “ancillary uses” in the Agricultural (AG1) and Roadside Stand (CR) zones. These zoning definitions are based on the definitions in the *ALC Act Regulation*. The AG1 and CR zones include a 35% lot coverage limitation for “farm buildings and structures” which would include wineries.



### *Restricting Wineries More Than ALC Regulations*

The *ALC Regulation* allows a municipal zoning bylaw to be amended to regulate the size, dimensions and siting of “farm-based wineries” and “ancillary uses.”

Any attempt to disallow outright these “farm-based winery” or “ancillary uses” is not normally permitted under Section 903 of the *Local Government Act*. However, Section 917 of the *Act* does allow a municipality to pass a farm bylaw that could prohibit farm uses allowed under the *ALC Act Regulation*, but the municipality must seek approval of the Minister of Agriculture, and be regulated under Section 918 of the *Local Government Act*. The decision to apply the Section 918 regulation is by Order in Council (a Provincial Cabinet decision). Only four (4) municipalities (Delta, Langley, Abbotsford and Kelowna) have taken this step.

Significant implications of being regulated under Section 918 are:

1. Any further zoning bylaw amendments that affect the ALR will need to be approved by the Minister of Agriculture;
2. A municipality requesting Section 918 regulation is expected to amend its bylaws to achieve consistency with the Minister’s Bylaw Standards (including residential uses in the ALR); and
3. Once the Section 918 regulation is applied, there is no specified process to remove the regulation.

### **Analysis**

Options for Consideration for Richmond’s Farm-Based Winery Provisions:

Given the above jurisdictional framework and AAC consultation, the following options, which do not require Ministerial Section 918 approval, have been prepared for discussion at Planning Committee.

#### Option 1

#### Maintain Existing Zoning Bylaw Regulations With No Size Limit (Not Recommended)

- ❑ The current above-noted “farm-based winery” use is maintained with the same two (2) Class 1 and 2 farm content requirements options.
- ❑ The current larger “ancillary uses” with no limits for storage, processing and tours are maintained.
- ❑ Maintain the other “ancillary uses” under the Zoning Bylaw:

- Tours with no floor area limits; and
- Food and beverage service lounge with the same indoor seating floor area of 125 m<sup>2</sup> and outdoor seating area limits of 125 m<sup>2</sup>.

#### Option 2

##### Include Separate Size Limits on Class 2 Wineries and Ancillary Uses (Not Recommended)

- ❑ The current “farm-based winery” uses with the same two (2) Class 1 and Class 2 farm content requirements options are maintained.
- ❑ Limit sizes on the Class 2 winery (e.g. 750m<sup>2</sup> from no limit currently), and limit larger ancillary “processing” and “storage uses” (e.g. 750 m<sup>2</sup> for each use from no limit currently).
- ❑ Maintain the other “ancillary uses” under the Zoning Bylaw:
  - Retail sales with no floor area limits;
  - Tours with no floor area limits; and
  - Food and beverage service lounge with the same indoor seating area of 125 m<sup>2</sup> and outdoor seating area limits of 125 m<sup>2</sup>.

#### Option 3

##### Include an Overall Size Limit on All Wineries (Recommended Option)

- ❑ The “farm-based winery” definition includes the two (2) current Class 1 and Class 2 farm content requirements options, but is proposed to be amended to include the ancillary “processing” and “storage” uses as part of the primary “farm-based winery” use.
- ❑ Limit sizes of the redefined “farm-based winery,” which includes both processing and storage within Class 1 and 2 wineries, by limiting the floor area of farm-based wineries to the lesser of either 1000m<sup>2</sup> or floor area ratio of 0.05.
- ❑ Maintain the other “ancillary uses” under the Zoning Bylaw, but within the above maximum floor area and floor area ratio limits:
  - Retail sales with no floor area limits;
  - Tours with no floor area limits; and
  - Food and beverage service lounge with the same indoor seating area of 125 m<sup>2</sup> and outdoor seating area limits of 125 m<sup>2</sup>.



### **Recommended Option**

Staff and the AAC contend that Option 1 which would maintain the current regulations will not protect the ALR from very large-scale industrial wineries nor smaller wineries that could provide a range of winery and non-winery ancillary activities such as informal banquet halls or convention services that could expand over time. Option 2 is seen as having too large a maximum permitted floor area for each of the currently defined “farm-based winery” and ancillary “processing” and “storage” uses. In practice, these three (3) uses are seen as all being part of the primary “farm-based winery” use in practice by farmers, the ALC and City staff.

Staff recommend Option 3 given the difficulty of differentiating the current ancillary uses of “processing” and “storage” from the winery itself, these ancillary uses are included within the new definition of principal “farm-based winery” use in proposed Zoning Amendment Bylaw 8860. The primary winery use and remaining ancillary uses of “retail sales”, “tours” and the indoor 125 m<sup>2</sup> “food and beverage” lounge are all included within the total maximum floor area of farm-based wineries being the lesser of either 1000m<sup>2</sup> or a floor area ratio of 0.05.

Of note, only the outside food and beverage lounge (with a limit 125 m<sup>2</sup>) does not have floor area, and thus is not included within the 1000m<sup>2</sup> (10,800 ft<sup>2</sup>) floor area limitation.

The maximum floor area of farm-based wineries being the lesser of either 1000m<sup>2</sup> or a floor area ratio of 0.05 is included within the Specific Use Regulations under Section 5.10 of Zoning Bylaw 8500. This allows the maximum floor area to be varied through a DVP.

### **Variances to Building Size**

Building size limits may be varied by Council through a Development Variance Permit (DVP) with the advice of staff and the AAC. Thus, the City is provided with more control over size, but proponents have an opportunity to seek City permission to increase the maximum floor area of a farm-based winery that exceeds 1000 m<sup>2</sup> (10,800 ft<sup>2</sup>) without going through a rezoning provided that winery does not exceed the floor area ratio or coverage for a zone (which are measures of density).

### **Legal Non-Conforming / Grandfathered Status**

The type and scale of uses established lawfully under zoning would be allowed to continue after a change in zoning, subject to the “legal non-conforming” status conditions under Section 911 of the *Local Government Act*. Any use that was commenced without appropriate zoning, and continues not to be allowed under the current zoning, cannot be grandfathered.

Sanduz Estates Wines has confirmed that they can operate within the proposed size limitation. The Lulu Island winery has a total floor area of 2068 m<sup>2</sup> (22,260 ft<sup>2</sup>) and will be greater than the proposed 1000 m<sup>2</sup> (10,800 ft<sup>2</sup>) floor area limitation, but its current allowed “farm-based winery” uses would be grandfathered should the proposed limitation be established under Option 3. It should be noted that Lulu Island’s proposed indoor and outdoor food and beverage lounges, each

with a 125 m<sup>2</sup> area limit, would be permitted to be established if the ALC grants permission for such a use.

## Conclusion

There are a wide range of farm-based winery and ancillary use opportunities allowed within Richmond's AG1 and CR zones that cover most of the ALR. Given the widespread area of these zones within the ALR and the broad definitions of "farm-based winery" and "ancillary" uses, restricting the floor area of both Class 1 and Class 2 farm-based wineries is proposed in Option 3.

Option 3 proposes to limit the floor area of "farm-based wineries" to be the lesser of either 1000m<sup>2</sup> (10,800 ft<sup>2</sup>) or a floor area ratio of 0.05. This allows the City and farming community to have a firm regulation to prevent large-scale industrial wineries that obtain all of their farm product from off-site and potentially outside of Richmond. Such wineries should be located on industrial-zoned lands. Secondly, including a maximum size limit will prevent farm-based wineries from being able to incrementally increase in size with an increasing range of associated ancillary winery uses that are difficult to practically regulate.



Mark McMullen  
Senior Coordinator – Major Projects

MM:rg





**Richmond Zoning Bylaw 8500  
Amendment Bylaw 8860  
(Farm-Based Wineries )**

The Council of the City of Richmond, in open meeting assembled, enacts as follows:

1. Richmond Zoning Bylaw 8500, as amended, is further amended:

a) by deleting the definition of **“farm-based winery”** and substituting the following:

“means a British Columbia licensed winery or cidery, and includes directly associated processing and storage, if the:

a) wine or cider produced and offered for sale is made from farm product and:

- i) at least 50% of that farm product is grown on the farm on which the winery or cidery is located; or
- ii) the farm that grows the farm products used to produce wine or cider is more than 2.0 ha in area; and
- iii) at least 50% of the total farm product for processing is provided under a minimum 3 year contract for a farm in British Columbia, unless otherwise authorized by the Provincial Agricultural Land Commission; and

b) other **ancillary uses** involving the following activities:

- i) retail sales;
- ii) tours; and
- iii) a food and beverage service lounge, if the area does not exceed 125.0 m<sup>2</sup> indoors and 125.0 m<sup>2</sup> outdoors.”

b) re-naming section **“5.10. Roadside Stands”** as **“5.10. Roadside Stands and Farm-Based Wineries”**

c) Adding Section 5.10.4. which includes the following text:

“The floor area of all **farm-based winery buildings** and **structures** shall not exceed the lesser of:

- a) 1000.0 m<sup>2</sup>; or
- b) a maximum **floor area ratio** of 0.05”



2. This Bylaw may be cited as **"Richmond Zoning Bylaw 8500, Amendment Bylaw 8860"**.

FIRST READING

PUBLIC HEARING WAS HELD ON

SECOND READING

THIRD READING

ADOPTED

_____	CITY OF RICHMOND
_____	
_____	APPROVED by
_____	APPROVED by Director or Solicitor
_____	

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CORPORATE OFFICER