

January 9, 2020

Subject Property:

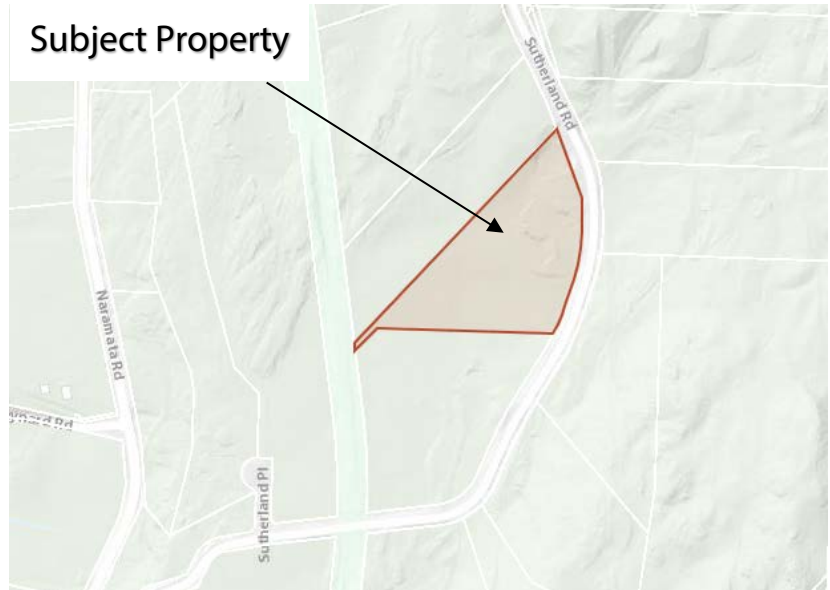
1853 Sutherland Road

Lot 1, District Lot 369, Similkameen Division
Yale District, Plan KAP76817

Application:

Development Variance Permit PL2019-8615

The applicant is requesting a variance to allow for the subdivision of the parcel into two lots. The City's Zoning Bylaw requires that each parcel be a minimum of 5 acres (2 ha). In this case, the applicant is requesting a variance from 5 acres to 1 acre to allow the existing house on the property to be divided from the vineyard and winery operation. (Refer to Figure 1 on Page 2.)



The applicant has applied to vary the following section of Zoning Bylaw 2017-08:

- Section 9.2.2.2: To vary the minimum lot area from 2.0 ha to 0.4 ha

Information:

The staff report to Council and Development Variance Permit PL2019-8615 will be available for public inspection from **Friday, January 10, 2020 to Tuesday, January 21, 2020** at the following locations during hours of operation:

- Penticton City Hall, 171 Main Street (8:30 am to 4:30 pm, Mon. to Fri., excluding statutory holidays)
- Penticton Library, 785 Main Street
- Penticton Community Centre, 325 Power Street

You can also find this information on the City's website at www.penticton.ca/publicnotice.

Please contact the Planning Department at (250) 490-2501 with any questions.

Council Consideration:

Council will consider this application at its Regular Council Meeting scheduled for **6:00 pm, Tuesday, January 21, 2020** in Council Chambers at Penticton City Hall, 171 Main Street.

Public Comments:

You may appear in person, or by agent, the evening of the Council meeting, or submit a petition or written comments by mail or email no later than **9:30 am, Tuesday, January 21, 2020** to:

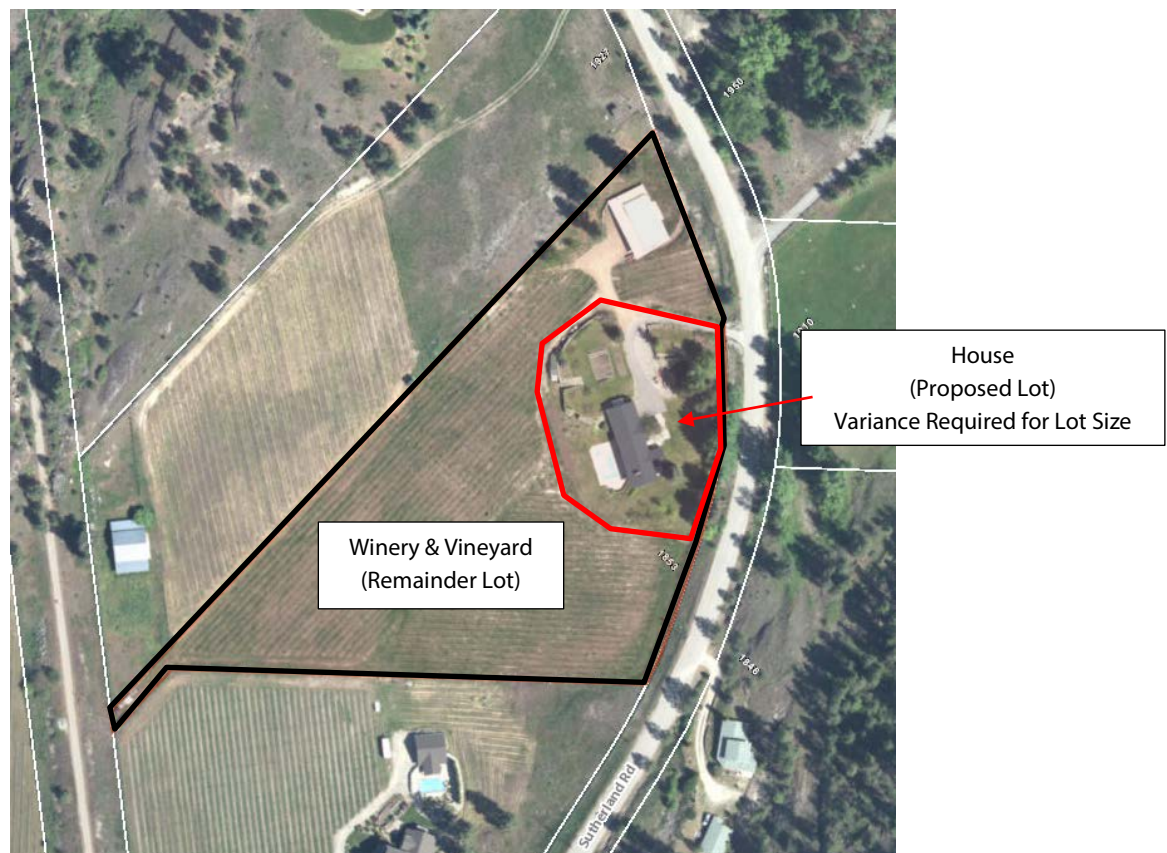
Attention: Corporate Officer, City of Penticton
171 Main Street, Penticton, B.C. V2A 5A9
Email: corpadmin@penticton.ca

No letter, report or representation from the public will be received by Council after the conclusion of the January 21, 2020 Council Meeting.

Please note that all correspondence submitted to the City of Penticton in response to this Notice must include your name and address and will form part of the public record and will be published in a meeting agenda when this matter is before the Council or a Committee of Council. The City considers the author's name and address relevant to Council's consideration of this matter and will disclose this personal information. The author's phone number and email address is not relevant and should not be included in the correspondence if the author does not wish this personal information disclosed.

Audrey Tanguay
Manager of Planning

Figure 1
Illustration of Proposed Subdivision



Date: January 21, 2020
To: Donny van Dyk, Chief Administrative Officer
From: Audrey Tanguay, Acting Planning Manager
Address: 1853 Sutherland Road
Subject: Development Variance Permit to allow for a potential 2 lots subdivision

Staff Recommendation

THAT Council approve "DVP PL2019-8615" for Lot 1, District Lot 369, Similkameen Division Yale District, Plan KAP76817, located at 1853 Sutherland Road, a permit to decrease the minimum lot area from 5 acres to 1 acre, to support a two lot subdivision, subject to the following conditions:

- At the time of subdivision a covenant is to be placed on the remainder parcel restricting any residential buildings on the vineyard parcel; and
- Prior to final approval of the subdivision, approval is received from the Agricultural Land Commission for the remainder parcel to be incorporated into the provincial Agriculture Land Reserve (ALR).

Background

The subject property is located on Sutherland Road at the north end of Penticton (Attachment 'A'). The property is approximately 2.24 ha in area and contains a single family dwelling, a winery (Terravista) and a vineyard. The property is not located in the Agricultural Land Reserve ALR (Attachment "B") but is zoned Agriculture (A) as per the City's Zoning Bylaw.

The applicant is requesting a variance to allow for the subdivision of the parcel into two lots. The City's zoning bylaw requires that each parcel be a minimum of 5 acres (2 ha). In this case, the applicant is requesting a variance from 5 acres to 1 acre to allow the existing house on the property to be divided from the vineyard and winery operation as per Figure 1.

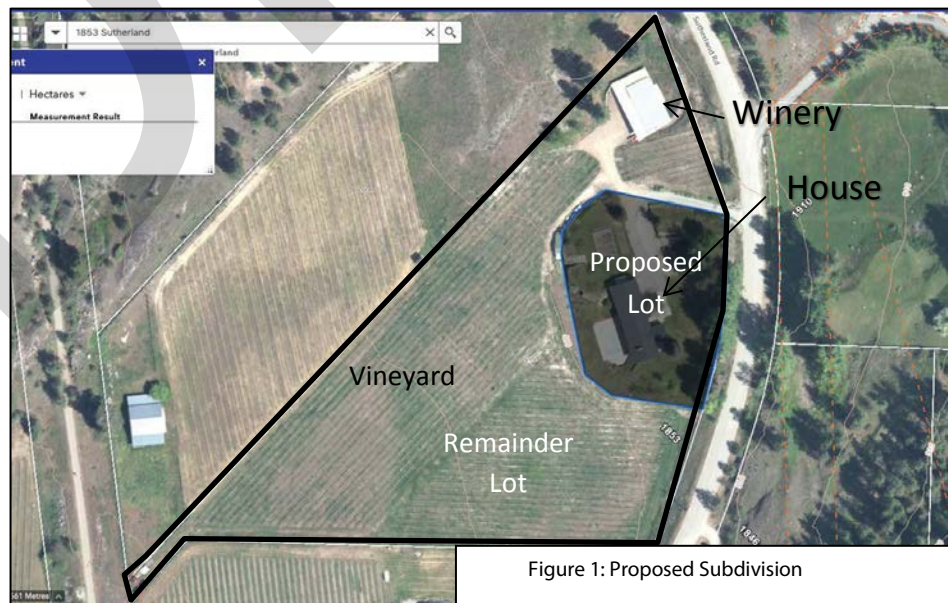


Figure 1: Proposed Subdivision

The existing winery and vineyard property would be approximately 4.5 acres. The applicant is also offering to make an application to the ALC to have the vineyard property included in the ALR. Additionally, the applicant is prepared to register a covenant on the remainder parcel to restrict any residential uses on the vineyard property.

The applicants have provided a letter outlining their reasons for wanting to subdivide the house from the vineyard and winery. That letter is attached as Attachment D.

Proposal

The applicant is requesting a Development Variance Permit to vary the following section of Zoning Bylaw 2017-08:

- Section 9.2.2.2: To vary the minimum lot area from 2.0 ha to 0.4 ha

Agriculture Advisory Committee

The application was presented to the City's Agriculture Advisory Committee on November 4, 2019 and the following recommendation was passed:

Main Motion as Amended:

It was MOVED and SECONDED

THAT the Agriculture Advisory Committee support "DVP PL2019-8615" application for Lot 1, District Lot 369, Similkameen Division Yale District Plan KAP76817 located at 1853 Sutherland Road, subject to the following conditions:

3. A covenant be placed on the remainder parcel to prohibit residential buildings on the vineyard parcel; and
4. The remainder parcel be incorporated in the Agriculture Land Reserve as part of an Agriculture Land Reserve Inclusion application.

CARRIED UNANIMOUSLY

The Agriculture Advisory Committee provided a recommendation to support the variance application with the condition that a covenant is placed on the remainder parcel to prohibit residential buildings on the vineyard parcel and that the remainder is incorporated in to the provincial Agriculture Land Reserve (ALR).

Technical Planning Committee

This application was discussed at the City's Technical Planning Committee meeting on October 10, 2019. Each lot would need to have separate services including a septic field and well. There are significant costs associated with the subdivision and the applicant has been made aware of these and is willing to proceed with the subdivision.

Analysis

The Official Community Plan designates the subject property as Rural Residential. The 'rural residential' designation is described as "rural areas with single –detached houses on large lots with modified services but that also allows for the growing, producing, harvesting, storage, processing and sale of agricultural produce.

The subject property is currently zoned A (Agriculture) under the City's Zoning Bylaw. The purpose of this zone is to provide for appropriate development within rural areas and to allow agricultural uses as well as other complementary uses suitable in an agricultural setting, while protecting the uses from intrusion of uses not compatible with farm operations.

The Official Community Plan includes the following Policies regarding Agricultural lands:

1. Agricultural lands – specifically those in the ALR on the Naramata Bench and in the Valleyview area, but also other Agriculture (A) zoned properties – are protected from non-agriculture development and are not intended to accommodate urban growth.
2. Policy 4.5.1.4: Discourage subdivision of agricultural lands. In most cases, City utilities and services will not be provided to these lands to discourage development of non-agriculture uses.
3. Policy 4.5.1.3 Support, and partner where appropriate, on strategies that facilitate an increased use of farmland for agriculture and food production

Given the designation of this property as rural residential, and given the willingness of the property owners to include the remainder lot into the ALR and to restrict residential development on the lot, staff are recommending that the variance be supported.

Staff have worked with the applicant to ensure that the application meets the intent of the OCP to support, protect and enhance agriculture. By including the vineyard in the ALR, this will ensure that the agricultural activities remain the primary use on the remainder parcel once the house is subdivided. The covenant will also ensure that there will be no negative impacts on agricultural viability and operations on the land as no additional residential could be built on the parcels. Those conditions need to be satisfied prior to final approval of the subdivision. Given the above, staff are recommending that Council approve the permit.

Alternate Recommendations

Council may not support the subdivision of this property. If that is the case, Council should deny the application. Alternatively, Council may support the application but not wish to further encumber the remainder piece and issue the variance permit without any conditions. If that is the case, staff recommend Council consider alternative recommendation 2.

1. THAT Council deny "DVP PL2019-8615".
2. THAT Council support DVP PL2019-8615, without the conditions regarding ALR inclusion and restrictions on residential construction.

Attachments

Attachment A – Property Location Map
Attachment B – Zoning map
Attachment C – ALR Land Sutherland Road
Attachment D – Letter of Intent
Attachment E – DVP

Respectfully submitted,

Audrey Tanguay,
Acting Planning Manager

Approvals

Acting Director of Development Services	Chief Administrative Officer
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Attachment A: Property Location Map



Figure 2: Location Map

Attachment B: Zoning Map



Figure 3: Zoning Map

Attachment C: ALR Land on Sutherland Road

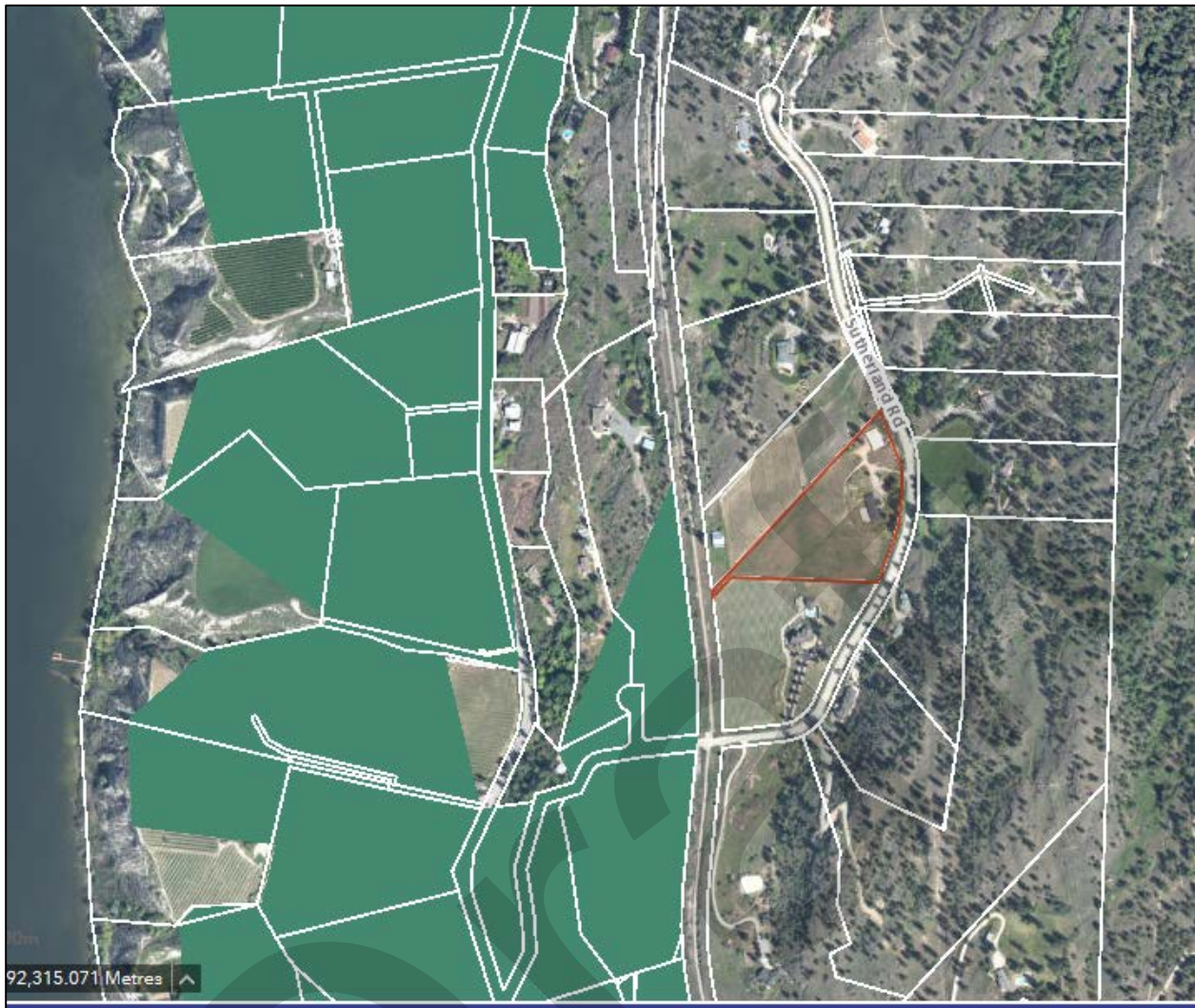


Figure 4: ALR Map

September 17, 2019

LETTER OF RATIONAL TO THE APPLICATION TO THE BOARD OF VARIANCE

In support of the Variance Application for 1853 Sutherland Road, Penticton, BC, V2A 8T8

1853 Sutherland Road (the "Property") is zoned agricultural and is not in the ALR. It is about 2.24 hectares and its primary uses are vineyard, operating winery and residence. We purchased the land, business and residence in April of this year.

We are aware that the lot size notation is 2 hectares for land zoned agricultural and we understand the stated reasons for this. We agree that land in our area should not be parcelled out in a way that compromises the agricultural nature of the region. We do not intend to change any aspect of the Property in terms of look or land use. The reason we request a zoning variance is because we own and reside at the property at 1571 Naramata Road and purchased the Property in order to acquire the business and land for our winery operations; we do not require another residence. By approving this variance request, our winery (Terravista Vineyards) will be able to fully utilize all the land at 1571 Naramata Road as a vineyard without the need to set aside farmable land to construct wine making facilities.

The partitioned off residential lot, to include the residence and approximately 0.50 hectares of the Property, will be sold to our friends Benjamin Becker and Christin Uebing.

Benjamin and Christin have a 10-month-old son and wish to move to the Okanagan to raise him and be nearer to family who live in the South Okanagan. They also have business interests in Penticton being partners in the property development Timberstone Ridge.

We reiterate that we do not intend to do any development on the lands or change any land use. We seek only separate title for the residence and approximately 0.50 hectares of the Property.

We welcome the opportunity to discuss any questions you may have.

Regards,



Eric Thor



City of Penticton
171 Main St. | Penticton B.C. | V2A 5A9
www.penticton.ca | ask@penticton.ca

Development Variance Permit

Permit Number: DVP PL2019-8615

Conditions of Permit

1. This permit is issued subject to compliance with all of the bylaws of the City, except as specifically varied or supplemented by this Permit.
2. This permit applies to:
Legal: Lot 1, DL369, SDYD PLAN KAP76817
Civic: 1853 Sutherland Road
PID: 026-124-319
3. This permit has been issued in accordance with Section 498 of the *Local Government Act*, to vary the following sections of Zoning Bylaw 2017-08 to allow a two lot subdivision:

Section 9.2.2.2: To vary the minimum lot area from 2.0 ha to 0.4 ha

General Conditions

4. In accordance with Section 501 of the *Local Government Act*, the lands subject to this permit shall be developed in general accordance with this permit and the plans attached as Schedule 'A'.
5. In accordance with Section 504 of the *Local Government Act*, if the holder of this permit does not commence the development authorized by this permit within 2 years of the date of this permit, this permit shall lapse.
6. **This permit is not a building permit. In order to proceed with this development, the holder of this permit must hold a valid building permit issued by the Building Inspection Department.**
7. This permit does not constitute any other municipal, provincial or federal approval. The holder of this permit is responsible to obtain any additional municipal, federal, or provincial approvals prior to commencing the development authorized by this permit.
8. This permit does not include off-site infrastructure costs that may be required at the building permit stage, such as Development Cost Charges (DCC's), road improvements and electrical servicing. There may be substantial infrastructure and servicing costs payable at a later date. For more information on servicing and infrastructure requirements please contact the Development Engineering Department at (250) 490-2501. For more information on electrical servicing costs, please contact the Electric Utility at (250) 490-2535.

Authorized by City Council, the ____ day of _____, 2020.

Issued this ____ day of _____, 2020.

Angela Collison
Corporate Officer

Draft