



The Corporation of the District of Central Saanich

REGULAR COUNCIL REPORT

For the Regular Council meeting on Monday, February 26, 2024

Re: 1445 Benvenuto Ave - Rezoning Application (Restaurant)

RECOMMENDATION(S):

1. *That Land Use Bylaw Amendment Bylaw No. 2156 (1445 Benvenuto Avenue) be introduced and given First Reading.*
2. *That Rezoning Application 3360-20-8/23 for 1445 Benvenuto Avenue be referred to the Advisory Planning Commission for comment.*

Following consideration by the Advisory Planning Commission the following recommendation should be considered:

1. That Land Use Bylaw Amendment Bylaw No. 2156 (1445 Benvenuto Avenue) be given Second Reading and referred to a public hearing.

Following Public Hearing the following recommendations should be considered:

1. That Land Use Bylaw Amendment Bylaw No. 2156 (1445 Benvenuto Avenue) be given Third Reading.
2. That prior to bylaw adoption a covenant be registered to secure that the restaurant use is permitted subject to the following conditions (formerly outlined in the TUP):
 - a) That approval under Agricultural Land Commission (ALC) resolution #143/2013 remains valid, including:
 - i. Church & State Winery must maintain, at a minimum, the current level of grape production directly associated with the winery;
 - ii. The liquor products sold on the premises must be, to the greatest extent possible, those that derive the majority of agricultural inputs from agricultural producers in British Columbia to manufacture such liquor products, and the liquor products are brewed, distilled or fermented in British Columbia;
 - b) The Owner shall manage its operations in a manner such that:
 - i. any music or other continuous noise (other than from normal farm practices), shall not exceed 60 decibels measured at the edges of the property;
 - ii. during special events Church and State staff will monitor sound levels at the property boundaries hourly after 8:00pm and make adjustments accordingly to ensure the average continuous sound level does not exceed the 60 decibel limit;
 - iii. hours of operation for outdoor events is restricted to 8:00pm;

- iv. hours of operation for indoor events is restricted to 11:00pm, with no outside activity on the deck area of the winery building after 10:00pm;
- v. the number of events is limited to a maximum of 75 annually, 12 monthly or three weekly;
- vi. during special events where outdoor activities are involved the number of people on the Winery property must not exceed the total occupant load of the Winery building (400 people);
- vii. outdoor special events are restricted as follows:
 - i) no more than eight events annually larger than 100 people to a maximum of 400 people, all of which will be subject to 14 day prior written notification to the District of Central Saanich and adjoining property owners of the Winery;
 - ii) smaller outdoor events are not to exceed 100 people;
- viii. maintenance of a good neighbour policy to monitor and address any neighbourhood impacts from activities at the Winery;

PURPOSE:

An application has been received to amend the text of the Agriculture: A-1 zone to permit a restaurant use permanently on the subject property only. This report provides staff analysis of the application.

BACKGROUND:

Church and State Wines was previously issued permission from the Agricultural Land Commission (ALC) to have a greater number of special events per year than what is normally permitted in the Agricultural Land Reserve (ALR). To give the winery operators greater flexibility in the type of beverages that may be served at special events, and to allow them to hold these events outside of their indoor lounge area, they also secured a Food Primary liquor license from the Liquor Licensing and Distribution Branch (now called Liquor & Cannabis Regulation Branch (LCRB)). In contrast with a winery lounge license, this Food Primary license allows the applicants to serve drinks other than BC wines (i.e. beer and spirits).

However, although these activities are permitted by ALC resolution #143/2013 and their liquor license, the Food Primary liquor license is indistinguishable from a "restaurant" use under the Central Saanich Land Use Bylaw. Therefore, Church and State has been operating under a Temporary Use Permit (TUP) to allow the Food Primary (restaurant) use since May 2014. They are now applying to permanently allow the use on the subject property.

Site Context and Surrounding Area

Church and State Wines is situated on the properties at 1445 and 1425 Benvenuto Avenue. The lots are 4.7 hectares and 5 hectares in area, respectively. The properties are split-zoned Agriculture: A-1 and Rural Estate Acreage: RE-1. The A-1 zoned portion of the properties lies within the ALR while the most westerly portion of the lots, located on the hillside, lies outside the ALR. To the south, west and northwest are properties that share the Agriculture: A-1 zoning designation. Graham Creek runs close to the southeast corner of the parcel. The Church and State properties are located directly adjacent to Butterfly Gardens, zoned Tourist Commercial: C-5, to the east. To the north of the site, land is zoned Agriculture: A-1. To the west there are Rural Estate (Variable Lot Size): RE-4 and Rural Estate Acreage: RE-1 zoned lands (see attached Site Context Plan).

DISCUSSION:

Official Community Plan

The subject property is designated as 'Agricultural' under Schedule F - Land Use Plan in the Official Community Plan (OCP). The Fundamental Principles include 'Support Agriculture and Food Security' under which the following is stated: *Our farmland is preserved, farmers are supported, and both residents and visitors continue to access fresh, healthy foods. The District recognizes agriculture as an important contributor to its rural and smalltown character, to the local and regional economy, and to local food security. Central Saanich's agricultural land base remains protected and sustainable agricultural production is supported.*

Section 4.2 Agriculture of the OCP includes the following objective: *Support the farming community and efforts to improve the sustainability and economic viability of farming on the Saanich Peninsula for future generations, including farm-related business and infrastructure, and encouraging a supportive farm network.* However, another objective states: *Recognize the contribution the agricultural landscape plays in creating the rural and small-town character that is valued by the community and prioritize farm activities over non-farm uses.*

General Policies include 'Retain areas designated as Agriculture on Schedule F: Land Use Plan for agricultural purposes regardless of any changes that may be made by the Provincial government with respect to the Agricultural Land Reserve. Prioritize farming activity, including Indigenous food systems, above any non-farm uses' and 'Encourage diversification and innovation in the agricultural economy and support measures to improve the economic viability of farming where they would not negatively impact the agricultural capability of farmland or the environment. This may include value-added processing, vertical integrated farming, farm-gate marketing, and agri-tourism'.

Based on the above objectives and policies of the OCP, there is strong support for the farming industry within the District but also a desire to prioritize agricultural uses over non-farm uses such as a restaurant. The restaurant use meets the intent of diversifying the agricultural economy. In addition, the (non-farm) use is directly related to the farming operation and takes place in an existing building without impeding farm use of any portion of the property.

As noted in previous staff reports on the Church and State operations, Food Primary licenses are typically issued to restaurants. As the name of this license suggests, the serving of food is the primary focus of this type of license (in contrast to the type of license issued for a bar). Although it may appear as a minor change - no physical alteration to the building, simply the ability to offer a beer instead of a glass of wine - this change tips the operation from being a *winery food and beverage service lounge* to a *restaurant* use. A TUP or rezoning is therefore required to permit this use, as restaurant is not a farm use permitted by the ALC regulations or the District Land Use Bylaw.

The ALC granted conditional approval for this requested Non-Farm Use in 2013 and conditions are included in the TUP that was issued. The TUP was also conditional, tying the restaurant use to the ongoing operation of the vineyard and winery. Staff recommend that the conditions previously included in the TUP be included in a covenant to be registered prior to bylaw adoption. The conditions would include that the restaurant use is conditional to ALC conditions being met. One condition that staff are recommending not to include in the covenant is the yearly reporting requirement on special events. As more than 9 years have passed since the first TUP was issued and the business has shown that it can operate without triggering ongoing complaints. In addition, any issues can still be addressed through bylaw enforcement.

District records indicate that one complaint has been registered for this property since 2011. The restaurant use was first approved in 2014. As the operation has been managed successfully in the past without raising any ongoing complaints from the public, staff support the restaurant use subject to the same conditions as previously secured through the TUP being secured by way of a covenant.

OPTIONS:

OPTION 1

The staff recommendation.

OPTION 2

An expedited approval process to advance the application without a referral to the Advisory Planning Commission is outlined below:

1. *That Land Use Bylaw Amendment Bylaw No. 2156 (1445 Benvenuto Avenue) be given First and Second Reading.*
2. *That Land Use Bylaw Amendment Bylaw No. 2156 (1445 Benvenuto Avenue) be referred to a public hearing.*

Following Public Hearing the following recommendations should be considered:

3. That Land Use Bylaw Amendment Bylaw No. 2156 (1445 Benvenuto Avenue) be given Third Reading.
4. That prior to bylaw adoption a covenant be registered to secure that the restaurant use is permitted subject to the following conditions (formerly outlined in the TUP):
 - a) That approval under Agricultural Land Commission (ALC) resolution #143/2013 remains valid, including:
 - i. Church & State Winery must maintain, at a minimum, the current level of grape production directly associated with the winery;
 - ii. The liquor products sold on the premises must be, to the greatest extent possible, those that derive the majority of agricultural inputs from agricultural producers in British Columbia to manufacture such liquor products, and the liquor products are brewed, distilled or fermented in British Columbia;
 - b) The Owner shall manage its operations in a manner such that:
 - i. any music or other continuous noise (other than from normal farm practices), shall not exceed 60 decibels measured at the edges of the property;
 - ii. during special events Church and State staff will monitor sound levels at the property boundaries hourly after 8:00pm and make adjustments accordingly to ensure the average continuous sound level does not exceed the 60 decibel limit;
 - iii. hours of operation for outdoor events is restricted to 8:00pm;
 - iv. hours of operation for indoor events is restricted to 11:00pm, with no outside activity on the deck area of the winery building after 10:00pm;
 - v. the number of events is limited to a maximum of 75 annually, 12 monthly or three weekly;
 - vi. during special events where outdoor activities are involved the number of people on the Winery property must not exceed the total occupant load of the Winery building (400 people);

- vii. outdoor special events are restricted as follows:
 - i) no more than eight events annually larger than 100 people to a maximum of 400 people, all of which will be subject to 14 day prior written notification to the District of Central Saanich and adjoining property owners of the Winery;
 - ii) smaller outdoor events are not to exceed 100 people;
- viii. maintenance of a good neighbour policy to monitor and address any neighbourhood impacts from activities at the Winery.

OPTION 3

Alternative recommendation.

OPTION 4

Deny the application and close the file.

CONCLUSION:

A rezoning application has been received to allow a restaurant on the property at 1445 Benvenuto Avenue. The application is to continue this use as approved since 2014 through a Temporary Use Permit, without changes to the site or the use. The restaurant use meets the intent of the OCP to diversify the agricultural economy. In addition, the (non-farm) use is directly related to the farming operation and takes place in an existing building without impeding farm use of any portion of the property. Therefore, staff are supportive of the rezoning.

Report written by:	Ivo van der Kamp, Planner
Respectfully submitted by:	Kerri Clark, Manager of Development Services
Concurrence by:	Jarret Matanowitsch, Director of Planning and Building Services
Concurrence by:	Christine Culham, Chief Administrative Officer

ATTACHMENTS:

- Appendix A: Site Context Plan
- Appendix B: Site and Building Plans
- Appendix C: Draft Amendment Bylaw