

FW: Cowiche Creek Brewing comment on the Agritourism Draft Staff Report/Code

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To: Olivia Story <olivia.story@co.yakima.wa.us>

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From: Derrick Nordberg <Derrick@cowichecreekbrewing.com>

Sent: Thursday, February 24, 2022 12:28 PM

To: Long Range Planning <longrangeplanning@co.yakima.wa.us>

Cc: Emily Fergestrom <emily@fortuitycellars.com>; Maria Nordberg <maria@cowichecreekbrewing.com>

Subject: Cowiche Creek Brewing comment on the Agritourism Draft Staff Report/Code

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Dear Planning Commission and Yakima County Planning Department Staff,

My wife and I decided to build a brewery back in 2014 because I fell in love with hops and got good at using hops to make beer. We started our journey with an Early Assistance Meeting(EAC) with Yakima County Public Services. The purpose of this meeting is to sit in an office with representatives from all divisions of Yakima County Public Services to discuss the proposed project. We can't even apply for our first permit until this meeting has been completed.

Seated at the table should be a person representing all facets of the jurisdiction from building and life safety, fire, SEPA, Environment, etc.

We had the unfortunate experience of having two key departments not show up. One was Fire Safety and the other was the Yakima Health District(YHD). Later we found out that YHD is not included in these crucially important meetings. We also found out that Fire Safety not only did not show up to the EAC but they never thoroughly reviewed our Conditional Use Permit for a Type 1 Microbrewery.

In the EAC, it was determined that our current driveway was a public safety hazard due to the angle of approach off of the county road and that a new ingress/egress was required.

Once we got our approved permit, there was no new driveway allowed. The reasoning, after I pressured our project coordinator Julia White why we couldn't have a new driveway like we discussed in the EAC? County code only allows for one ingress/egress per a parcel.

The Fire Marshall missed a key part of our application and that was that our driveway was not wide enough for a fire apparatus(truck) to drive in at the same time traffic was exiting let alone make the turn onto the driveway from the county road. The new Fire Marshall, Chris Pedersen, caught this error when she came out to inspect some propane piping we were burying in the ground. She informed me that she can overrule the county code from the Roads division to get us a second ingress/egress. This happened 3 weeks before our planned grand opening. This delayed our opening by 6 months and required us to apply for another permit, wait for approval, then start construction in the middle of winter with 2 feet of snow on the rocks we had to jackhammer to get line of sight distance cleared. This was something that should have been done two years earlier in summer when I pressured Yakima County on the need for a new driveway and was told no.

This is the point in our project where we learned a key lesson. When we make mistakes, we pay for it. When Yakima County Public Services makes mistakes, we also pay for it.

Fast forward to our grand opening that next April. We open our first day of business with all permits signed off. We bring in a mobile food vendor and have a friend's band play inside the building for a couple hours.

That next Monday I get an email from Chris informing me of all of the codes I broke. Food Vendors without a Special Occasion permit. Live music not permitted. Building Occupancy exceeded.

It was at that point I learned two more key lessons. If we do not explicitly ask for permission to do something, we cannot do it. It most likely will require another permit. Secondly, we are guilty until proven innocent.

I had to provide images to prove we were never over our occupancy during our busiest time.

I was completely unaware that live music was not allowed as a Microbrewery. I made a crucial mistake and assumed that breweries and live music go together. Not once in the EAC was live music not being allowed discussed. No one ever said, "hey, just so you know, you can't have an art gallery, weddings, or live music." All three are clearly stated in Title 19. No one ever said "also, if you want a food vendor, they need to spend \$216 to get a special occasion permit from the fire marshal and do an inspection before they can serve at your brewery."

Learning from my first key lesson, I knew there was only one way to react. I have to pay. So we started buying Special Occasion permits for live music and Special Occasion permits for our food vendors.

Eventually the cost of these permits made it prohibitive to have music or food vendors out.

We then learned key lesson number four – without food service, alcohol consumption skyrockets and the effects of that consumption results in drunk people leaving our brewery behind the wheel. We can stop them once they reach the point of being over .08, but we can't stop them from driving.

Here comes key lesson number five. If you have customers leaving your business impaired you don't sleep at night. These are our friends, family, acquaintances, valued members of society, policemen, firefighters, doctors, the list goes on.

We then made the decision to obtain our Type 4 Ag Tourist Operation(ATO) permit so that we could start serving food full time and fill the stomachs of our customers with fatty acids that would slow down the absorption of alcohol as well as fill them up.

\$22,000 and seven months later Yakima County Commissioners voted to approve our ATO. We had 2 years to meet all conditions of the permit and we did all of the construction in less than a year.

Now we get to lesson six. Once you serve food full time at the brewery it changes two very important behaviors. One is that people consume less. The other is that they leave and go home early. We used to have logs in our overservice log book at least once a week. Now, we have two entries since July of 2020 when we started full time food service. We used to have to force people out of here just to close the doors and now by closing time at 9:00 everyone is pretty much gone.

Now it is March of 2021 and I get invited to be a part of an advisory committee on ATO Rules.

It was brought up in one of the first meetings that we needed to clearly identify the problem. I don't believe it was clearly defined.

In my opinion, the problem is that WBD owners were never educated on what is and what is not allowed in EAC meetings and throughout the permitting process. WBD owners also started adding services and events without obtaining the appropriate permits. There are WBD locations that were approved to operate but don't meet current code such as 20' right of way for fire apparatus. There are special occasion permits that are used as a band aide to fix the problem of events at locations without an approved ATO. Yakima County is not consistently enforcing the existing code amongst all WBD locations. On top of that you have a few people in rural Yakima County that like to complain about anything and everything they can.

The solution is that we need to get everyone in compliance. It needs to be enforced consistently across all WBD locations, not just the new brewery in Cowiche or the Winery in Wiley City. We both spent the time and money to go through the ATO process to increase public safety.

Those narrow driveways need to be widened. The WBD owners that are serving food need to go through an ATO Review that address things like parking, ingress/egress, SEPA, upgrade their wells to Group A water systems, upgrade their septic systems and get a Hazard Type 3 permit from YHD. If they are holding concerts, WBD owners need to go through a review that ensures that parking and ingress/egress do not pose a public safety hazard.

The current ATO code needed to be cleaned up. It needed to be streamlined so that it was easier to navigate and obtain. It was cost prohibitive. I believe public services has done that with the draft. Collapsing the tiers, eliminating the requirement of BOC Approval, and reducing fees were all steps in the right direction. I feel that while it is in the right direction, more could be done to simplify the permitting process.

However, modifying the existing WBD code to limit events to 100 people is a very poor attempt at fixing the real issues at hand which are narrow driveways, unpermitted food and concert facilities, and annoyed neighbors. Limiting the events to 5 a year still equates to 5 complaints from that whining neighbor. That narrow driveway is still getting used 5 times a year and if someone codes out on the lawn as the concert is ending and the EMTs can't reach the patient in time because of exiting traffic, someone just lost their life because we didn't correctly identify and solve the problem.

Event capacity should be based on quantifiable items such as parking spots, handicap spaces, bathroom capacity, building/grounds occupancy. Cookie cutter rules like no events over 100 or 5 maximum events do not fix the issues at hand. We can seat more than 100 people in our brewery and the patio alone.

I am not sure how Yakima County can go back to these WBD locations and say, "hey, we made a mistake, your driveway is too narrow and we need you to spend \$10,000 to widen it" but that is what needs to happen. The Health District needs to tell the unpermitted food facilities they have to stop serving food until they get their hazard type 2 or 3 permit. And if you want to hold a concert, everyone needs to go through a parking and ingress/egress review to ensure unimpeded access for fire and life safety vehicles. Once those necessary reviews and permits are fulfilled the WBD location should be considered in compliance. They should be allowed to have a concert more than 5 times a year and if they have 200 approved parking spots then 500 people should be able to attend. That complaining neighbor won't have a valid excuse to complain if there is no threat to public safety.

Now that we have completed our construction for our Type 4 ATO Resort my main concern with the new code is that all of the time and money spent on our existing permit and what is allowed would change. I was assured by Olivia Story that we are grandfathered in and that these rule changes would not affect our Type 4 ATO Resort permit allowances. I want to also make sure that our Type 4 permit does not get converted into a new Type 3 Destination.

I also commented on a change that was made to the definition of an outdoor festival(such as Chinookfest). The word "and" was replaced with "or" when defining that the event had to be at least 5 hours AND over 500 people to be considered an outdoor festival. I believe that verbiage has been switched back to use the word AND. Switching that word to OR is a mistake because a simple event like a class reunion that lasts 6 hours would now qualify as an outdoor festival. The word AND needs to be used in that definition.

I appreciate the opportunity I have had to be included in these discussions as we move forward. That was also a great big step in the right direction. If there is anything else I can provide to help I would love to do so.

Thank you in advance for your time.

Sincerely,

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