

Dear Mayor and Council;

RE: Seeking Public Comment, For TUP-2021-0017 – 620 Laura Road

We were watching, for other reasons, the Regular Council meeting on February 22, and so saw some of the discussion and presentation around this TUP, which is on property immediately neighbouring ours, and where our respective properties are open and exposed to each other. The land, and water, flow together.

February 22nd was the first that we had known about the proposal, and the nature and scale of what was proposed. We then watched the meeting in full, and 11 days later, March 12th, received the letter seeking public comment to inform Councils deliberations on March 22nd.

With respect, we are so taken aback by the speed of this, that a proposal that could have such profound effects on both our personal lives and our business – 1355 Westside Road, where we live, is also where we have for thirty plus years run Evergreen Acres Riding Centre - was sprung on us in this way, with so little clear or factual information, and that it seems the only remaining step is to check off the public comments box. It is entirely possible that you approve this TUP on March 22nd, and the next day there is an operating cidery permitted for at least three years right next to us.

We cannot understand why the TUP process, which has such short time parameters, and where public notice/comment is so late in the process, with such limited information and detail publicly shared and provided, why this process can be seen as adequate when the applicants, it has now become clear, had known, intended and planned this over an extended period of time. We now know that there is a webpage, Facebook page, and Instagram account for Riley's Cider, created way back into 2019, where the announcement was made months ago that they would be opening in Spring 2021:



There are so many questions, concerns, and issues that we believed that the OCP, LUB and the processes in place would and should address at the very beginning of a plan for a cidery in a rural residentially zoned neighbourhood, and yet, again with respect, it does not appear that many of those, some of real importance, and with the potential to impact the whole of the community and set precedents that could be relied on far into the future, again, it does not appear that those questions, concerns and issues have been properly explored and assessed. If they have, and there is information on record and available, we really feel that in

order to give any meaningful public comment, we and the public more widely need to see and hear and have access to that information and record.

Attached to this letter is a list of questions, concerns, issues, in note form, that we seek clarification on. We appreciate that this is a lengthy list, but given that many of our neighbours share a lot of these concerns, and worries, we sincerely hope that Mayor and Council will give them the careful attention and scrutiny they deserve.

We cannot support the TUP. Together with our other concerned neighbours who have made submissions to you, we are compelled to record our strong opposition due to the substance, presentation, consultation process, and available information at this time,

Yours,

Christine and Heather Miller

 Westside Road

water and the natural environment

If this TUP goes through:

Will our drinking water be safe?

We don't know

Will we have enough water to meet our own needs and look after our horses?

We don't know

Will Murray Creek, our pond, and the wetland on our property and below be polluted?

We don't know

Will the wildlife this water system supports be damaged? Will the ability of the fish-bearing streams that draw from Murray Creek be damaged? Will the quality of the Grafton Lake watershed be affected?

We don't know

Although the TUP application process requires the site plan include the location of all natural and topographic features including watercourses, the application and plan for this TUP does not mark or identify Murray Creek, which bisects the site.

Neither the siting of compost, nor of the toilets that must be available to serve the cidery customers, neither of those things are on the plan.

There are no limits or even potential ranges given in any of the material put forwards for this TUP, either in the planning report or in the responses of the applicants, for how many litres of cider will be produced, and no occupancy limit beyond the one limit mandated by the LRCB that no more than 30 people may be in the picnic area. Apart from that, with an orchard, tasting room and other parts of the property freely available to the public, there is no limit to how many people can be on site during opening hours. There could be 1 person, there could be a 1,000, on this property during those hours. The current proposal wants to set those as from 9am to 11pm; we've been told the applicant is willing to concede to 9am to 9pm. That is 12 hours a day, all or some or most of the 365 days in a year – there is no limit on days of opening. There are no limits.

The cidery could produce 20,000 litres of cider a year, it could be 50,000– who knows?

A cidery sounds wonderful, bucolic, wholesome, everything you would want in a rural setting.

This is in fact an industry, with associated industrial processes that ought to be carefully delimited and considered in any municipal zoning process, including the issuing of a TUP; the manufacturer liquor licence required for a cidery to open and operate immediately triggers BC Assessment to amend their land use information to record light industry as a site useⁱ

Issuing the TUP to allow this light industry in a Rural Residential zone, and framing that as part of a progression to Rural Commercial zoning, creates a precedent for allowing light industry in those zones – that is a very, very big issue, and one that should not be allowed to proceed without serious consideration of the OCP and other limits, including full, informed public consultation.

This is an industry that produces vast quantities of polluted wastewater. Cideries and wineries are essentially the same industrial process, which is why for the purposes of the law, eg in the liquor licensing process, they are the same thing; a cidery is a land-based winery, that is the basis and ground of their licencing.

In the words of Hollis Hughes, who has provided wastewater treatment solutions for California’s wine industry for thirty years:

Wastewater generated by wineries is typically too polluted [high in BOD] for a municipal wastewater treatment plant, so the winery must treat it onsite prior to releasing the water into a sewer, river, or even using it for irrigation...The high-BOD water, if released into a river, would suck up all the oxygen and effectively kill every living thing in the waterway...ⁱⁱ

Having exhausted our own ability to research this, and wanting the very best quality information, we have reached out to senior faculty at the UBC Faculty of Land and Food Systems, who have been kind enough to provide us with some reference material and the names of other academics whose work is more focused on this area; we are reaching out to them now for more information.

From references supplied by them, we learnt more about what is in that wastewater: *“It is necessary to seek physicochemical and biological treatments to remove or reduce contamination in the waste lees due to phenols, pesticides, heavy metals, considerable concentrations of nitrogen, phosphate and potassium as well as high organic content...”ⁱⁱⁱ*

How much wastewater? The information we have found gives a range from 5 to 10+ times the amount of cider produced – so 50,000 litres of cider could produce 500,000 litres of polluted wastewater.

This is wastewater too toxic to be handled in municipal drainage systems without prior treatment.

Our municipal drainage system, in this neighbourhood, is through the ground and into the waterways.

We have, since this TUP proposal was made known to us, asked the Municipality and the applicants if there has been an environmental assessment, a hydrological impact assessment, done by a qualified professional, or if there is an environmental standards plan in place. Mr Purdy supplied answers to some the questions we asked, but defined the waste as “greywater” - it’s not.

There has not been an assessment, done by a qualified professional, addressing the scope and environmental impact of the cidery, a light industrial facility actually already running and producing cider, in a residential neighbourhood, located in a particularly sensitive and important waterscape.

Why does this matter?

A topographical map of Bowen shows clearly that this site, and Laura and Westside Roads more generally, are at the head of the main valley bisecting Bowen, and water run off from Mount Gardner is funnelled through this area into Bowen Brook which feeds Grafton Lake.

Our backyard is, in water terms, the backyard of everyone who relies on water from our location down to the Lake, and then through the Snug Cove water system, and it’s also the backyard of every form of aquatic life along the way.

Murray Creek runs through the property seeking this TUP (620 Laura Road) and bisects the orchard and cidery sites; it feeds the two ponds on site, and flows immediately into a larger pond on the property below this site (our property, 1355 Westside Road). There is another pond drawing from this area on another neighbouring lot; from the pond on our land, Murray Creek continues through a forested and wetland area to the intersection of Sunset and Adams Road, where it flows into Bowen Brook; as all the mapping used by the Municipality to identify the Grafton Lake protected watershed area, and other water issues, shows, the Laura Road/Westside Road neighbourhood is the headwaters zone for drinking water for very significant parts of the island, and for the water supporting fish and other aquatic populations.

Peggy’s Creek also originates close to this site, and flows through another large pond at the end of Westside Road into an extended wetland area; this waterway also then feeds into the Bowen Brook waterway which feeds Grafton Lake, and is also used for surface water by multiple households between this headwaters zone and the lake.

The water flow through this site is not only important for the network of watercourses, but also for those of us with wells; properties on Laura Road, Westside Road, along Adams Road, up Sunset, draw their water primarily from deep wells drawing from the fractured rock beneath us.

On our property, 1355 Westside Road, we experience decreased flow in the summer, and have long conserved and managed our water carefully. Not only for our own domestic use - we have seven horses here whose health and well-being depends entirely on our care; making sure they have sufficient, clean, fresh water is crucial.

We have had a horse farm on our land since buying this newly cleared plot in 1990 and derive a livelihood from it, as well as making our home here; this is not a hobby farm, it is a working farm in the full meaning of that term.

As farmers, we see ourselves as stewards of this land, and given its unique, important place in Bowen's environment, as citizens bearing a responsibility to the community to take good care of the water. We have always taken care to guard "our" creek – Murray Creek – and our pond; our fields are distanced from the creek, pond and wetland, more than the 30m setback required, we manage our manure carefully, we monitor and think about the gravel and hog fuel we add to the land. We've checked and continue to check our practice against the best professional and legal standards. We consulted with the Certified Organic Associations of British Columbia (COABC) and their regionally accredited certification body IOPA (Islands Organic Producers Association) about the use of wormers for horses and its impact re using manure as compost; we don't use Ivermectin wormers, even though they are traditionally allowed under organic standards, because of concerns about its impact on soils.

Our land is not just home to us and our horses; we have bats, frogs, otters, salamanders, newts, owls, geese, the occasional odd duck, swallows, hummingbirds, crows, ravens, deer, and on and on. As we could tell from the footprints left in the wetland at the bottom of our property, every bear that's been on Bowen, and the wolf dog, plus a lot of deer, see our land as a corridor; this neighbourhood is a crossroads for animal traffic. The otters too, travelling up and down Murray Creek, in and out of our pond. We have mosses and lichens, lots of indigenous trees, grasses; we pull out and eradicate the scotch brom that keeps trying to encroach. We try to respect nature and its processes, and co-exist in harmony with it.

impacts to consider: proposed TUP 620 Laura Road

levels of water use: every aspect of the proposal involves significant water use above the base level of a residential property; besides the 4080sf main residence, the property also has an 1800sf barn/guest accommodation area, currently a non-compliant, unlicensed Residential Guest Accommodation. Therefore, basic residential uses of water and sewage are already significant; the proposed cidery requires water for irrigation, the washing of fruit before processing, water

required in the cider-making process itself, the cleaning and sanitation to food-safe standards of equipment, the bottling of cider, and then the need for both water and sewage for the immediate needs of employees/staff and visitors

farming: although the applicants state they follow organic practices and plan to pursue organic certification, even organic management of a large monoculture crop involves the application of fertilizers, pesticides, herbicides, etc, which run-off into streams and permeate the ground.

cider production: an industrial operation, producing contaminated wastewater, with no limits in place or communicated around production levels, or adequate information on remediation and care; on top of basic operations, what happens if there is a contaminated or spoiled run that needs to be disposed of?

compost: again, using the figures we can find, it takes anywhere from 3-5 lbs of apples to produce 1 litre of cider:

the raw juice represents 75% of the processed apple mass and the remaining 25% is the by-product, apple pomace...The disposal of apple pomace into the environment, due to its high bio-chemical oxygen demand, represents a pollution problem. Direct dumping is also difficult, because of the high costs of transportation and the generation of foul smell.^{iv}

50,000 litres of cider equals anywhere from 37,500 to 62,500 lbs (18.75 – 31.25 tons) of solid waste; 20,000 litres, 15,000 to 25,000lbs (7.5 to 12.5 tons). Those are very significant amounts to deal with – to compost them, as the applicants have suggested they will do, means the addition of even more material, to balance the extremes of the pomace. Where is that going to be? How much leaching into the ground will there be?

The applicant responded to our concerns about compost by communicating that they had “a few possible locations” for pomace on-site, and that the fruit coming from the Similkameen would be delivered to the site as prepared juice, not fruit. This for us is insufficient, and creates a whole extended level of questions about the issues related to the sourcing of the ingredients for this cider, and just how “local” their product will be.

Currently, according to the applicants, they leave pomace on the ground and the deer eat it; they’ve even set up cameras so they can watch the deer coming and going for this food.

Feeding the deer the pomace waste is actually harmful to them, to the point where it can kill them– it fills them up with a food source their digestion can’t handle, and that doesn’t provide the nutrition they need, which they would get from the woody browse that’s more work for them to find and eat than the attractive, sugary food source left on the ground – they can literally starve to death on that diet, or suffer such serious impacts in digestion and malnutrition that they die. Feeding wild animals, or any animals, food that is not right for their biology is not funny, or cute, or entertaining.

A final brief note – as the reference above suggests, odour is potentially a very significant nuisance for neighbours and others, which hasn't been mentioned or captured in the discussion so far – both in the wastewater and solid waste, yeast and sugar promote the production of hydrogen sulfide, producing a rotten eggs smell – this is something that has seriously impacted quality of life for many. See for instance

- <https://www.uticaod.com/article/20140607/news/140609537>
- <https://www.sandiegouniontribune.com/sdut-pa-brewery-shuts-down-over-stinky-odor-complaints-2010aug05-story.html>

Those examples refer to craft beer breweries, which are more usually found in towns/cities, but the causal issue – yeast and sugar decomposing – is the same for a cidery.

CONCLUSIONS

We have yet to see or hear anything, from either the Municipality or the applicants, that indicates to us that there been has a sufficient standard of due diligence in protecting our water and health, and that of the natural environment.

Putting a light industrial process, one that is especially and particularly productive of pollution, in a rural residential neighbourhood, on a site where the same business has so many other water impacts, in an area whose water ranges so far, without careful, accountable, open attention, is beyond anything we can comprehend.

We have written to Vancouver Coastal Health, seeking information from them about the remarks sent to us by the applicants, and the scope and nature of VCH's responsibilities, as they are responsible for drinking water, and the applicant has indicated he is "working closely" with VCH; as he says that "[w]e are working with VCH and a qualified wastewater engineer to implement a gray water system", we would like to establish with VCH the extent and nature of their involvement. We will also be writing to the Ministry of Environment and Climate Change Strategy, responsible for the effective protection, management and conservation of BC's water, land, air and living resources, and to the Islands Trust once we receive a reply from Vancouver Coastal Health and have a clearer understanding from them of the situation.

i <https://info.bcassessment.ca/Services-products/property-classes-and-exemptions/understanding-property-classes-and-exemptions>

ii <https://www.spiritedbiz.com/every-last-drop-wastewater-treatment-doesnt-waste-water/>

iii B. Pérez-Bibbins a,b , A. Torrado-Agrasar c , J.M. Salgado a,b , R. Pinheiro de Souza Oliveira d , J.M. Domínguez a,b,: Potential of lees from wine, beer and cider manufacturing as a source of economic nutrients: An overview
Journal: *Waste Management* Article history: Received 12 November 2014 Accepted 8 March 2015
Available online 29 March 2015

iv Vukušić, J.L., Millenautzki, T., Cieplik, R. *et al.* Reshaping Apple Juice Production Into a Zero Discharge Biorefinery Process. *Waste Biomass Valor* (2020). <https://doi.org/10.1007/s12649-020-01245-5>

some selected sources:

Waterscape Bowen Island, <https://bowenisland.civicweb.net/document/154959>

Grafton Lake Watershed Study 2002-2003,
<https://www.bowenislandmunicipality.ca/files/GraftonLkWatershed2003.pdf>

watershed, water resource, maps and other information regulating BIM land-use planning, provided via <https://www.bowenislandmunicipality.ca/land-use-planning>:
<https://bowenisland.civicweb.net/filepro/documents/34226>

The impact of the winery's wastewater treatment system on the winery water footprint A. Saraiva ; G. Rodrigues ;H. Mamede ;J. Silvestre ;I. Dias ;M. Feliciano ;P. Oliveira e Silva ;M. Oliveira *Water Sci Technol* (2019) 80 (10): 1823-1831. <https://doi.org/10.2166/wst.2019.432>

Winery Process Wastewater Management Handbook: Best Practices and Technologies February 2018

<https://www.bcwgc.org/sites/default/files/uploads/Wastewater%20Management%20-%20Final%20Digital.pdf>

Feasibility Study For A Small Farm Cidery in Nelson County, VA <https://cpb-us-e1.wpmucdn.com/blogs.cornell.edu/dist/c/7021/files/2016/06/Nelson-County-Feasibility-Study-Final-1-23-13-1fh3ah9.pdf>

"Biochemical oxygen demand". *Encyclopedia Britannica*, 18 Oct. 2011,
<https://www.britannica.com/science/biochemical-oxygen-demand>.

LIQUOR LICENCE AND ALCOHOL

We have grave concerns about the licence process; we have followed up with the planner on some issues, and with the LRCB. We will be making a written request to the LRCB for a fuller investigation and explanation of the circumstances of this licence.

We are concerned that the planner and Mayor and Council did not address:

- a licensed facility, open to the public, for up to 11 hours a day,
- in a residential neighbourhood on a dead-end street that sees little vehicle traffic, but is a popular walking destination, with children, horses and many older walkers, and parents with young children/strollers, who cherish the freedom to walk without encountering traffic
- where the proposed hours aren't amenable to the use of public transport, but that in any case, the location of the cidery will mean it is a driving destination
- where the nature of the licence means that there is no food available on site
- where public order, parking, noise and other complaints frequently ** by any will be most frequent on evenings and weekends when there is no bylaw assistance, so residents will have to address all concerns to the RCMP
- where our business, directly across the road, is open along the whole of our Westside Road boundary, with an accessible pond, private trail for our riders, and fields with horses, all likely and potential areas for trespass
- where cidery customers are potentially a source of litter, broken glass, etc, outside the cidery property
- that promoting and encouraging this as a tourist destination brings numbers of people, who will be drinking, and have no connection to the community or care about its residents or their peace
- the inadequate number of parking spaces; with the Laura Road trail head parking already often full to overflowing, and a new destination we feel is likely to attract many more than even the ten car spaces identified on the site plan, plus staff, we feel it is likely that cars will frequently park on the grass verges fronting our property and on the wider semi-shoulder opposite our driveway; this is a flat area, just past the junction of Laura Road and Westside Road, and we are visualizing months, of noise, drunks, cars where currently there are none, people parked

As far as we are aware, there is only one other public licenced Establishment outside the Cove/Artisan Square area, at the golf course, which is not at all close to or disruptive of residential life; it is very strange to us that there has been no consideration of the impact of a licensed Establishment in a residential area, with the hours proposed. Even stranger, when staff must be aware that the Legion, a private licensed establishment, for historic reasons in a residential area, attracts complaints of noise and disorder.

Also, given that a manufacture licence, which has particular and unique features, it appears to us that both the planner and Mayor and Council should be careful to delineate exactly what is meant by the available endorsements and what they permit; for example, the lounge, patio and special events endorsements allow the licensee to sell any legal alcohol, not just their own product. As the applicants have said that that are attempting to asses the viability of this business, it appears to us highly likely, especially given the RGA building available on their property, that they will return and request a special events permission. It should be noted that this comes as a package with the lounge/patio endorsement – they are not separate, and allows the sale of all legal alcohol products, not just the cidery's product.

As a new and unique endeavour and form of licencing for this community, the lack of discussion and attention by Mayor and Council to this topic on February 22nd felt strangely indifferent to something that we are sure they recognize is worthy of respectful attention and care. We hope that Mayor and Council will respectfully consider the very real and legitimate concerns of residents.

Without more careful and deliberate attention to this issue, we cannot feel that Mayor and Council are meeting their responsibility to safeguard our legitimate interest in enjoying peace and security in our homes.

SOME PROCESS AND POLICY QUESTIONS: A sketch

brief notes; some issues will be addressed by us in letter to Islands Trust, which will also cover water/natural environment issues

this TUP would unilaterally deprive neighbours of the protections in the noise bylaws, and of the shield of the defining principles and regulation expressed in the OCP, other bylaws and polices – eg light pollution – questions re how/whether/how defensible it is to deprive one group of people of those protections to advance the business interests of another, in a residential area – concerning re precedents being set

this proposal has been promoted and argued for as agritourism, an agricultural business, part of the impulse to community economic development –

- how does that comport against the OCP directive re destination tourism, the clear expressed balance of opinion on the island, for sustainable tourism that doesn't destroy the peace/quiet/residential comfort of residents

unduly, where Tourism Bowen has long been directed (in the EDC) to start developing a sustainable tourism plan reflecting these values, but has not yet delivered or apparently progressed at all on this – precedents being set against OCP/set policy directions

- the applicants are asking for a three year TUP to see if this is a viable business, and Mayor and Council seemed disposed to relax regulations and limits to allow them maximum latitude on that basis; however, this business experiment will directly and negatively impact an established agricultural business which already provides a livelihood for islanders – no net gain
- can't use promotion of agricultural business as an argument for this TUP when it negatively impacts an agricultural business that comports with Rural Residential zoning and has successfully done so for thirty years
- community – community economic development, argument by applicants that they seek to grow community, etc – CED ought surely to include business retention and support for already established businesses offering considerable community services like ours? Why is a new experimental business more relevant or valid? Also this TUP process and the very late and limited public consultation offered to us, and the failure of the applicants to approach/discuss/explore any of the impacts or concerns their business might reasonably be foreseen by them at all before they went before Council for a TUP is not community friendly? We and the applicants are neighbours who are outside, in close visual and verbal distance, regularly, and the applicants in fact have long had regular interactions in the neighbourhood with us, pre and during COVID
- serious concerns about the use of a TUP to cross so many policy, jurisdictional (ie liquor licensing) boundaries, and uses on a single site, esp light industry in residential zoned neighbourhoods, with little review, and also the suggestion that this could be basis of Rural Commercial zoning (when the class of Rural Commercial that would cover this new business doesn't yet exist) – at least appearance of tailoring zoning and processes to suit one person/businesses interest against the careful, deliberate development

use in planning presentation/report of highly selective and limited OCP references, no presentation or consideration of others – culminating in staff recommendation to allow this TUP – there are a number of issues like this that could reasonably be seen to give ground to concerns that special favour or interest is being shown with this TUP

use of the TUP generally, potential to bypass or override OCP eg

on too many points, the TUP and Mayor and Council's existing consideration, the maximum freedom, lack of any defined limits or even discussion of them (occupancy, hours, eg) are promoted on grounds that are highly, highly context specific, and the applicants themselves frequently suggest and promote their individual natures and values as supporting the fact that they wouldn't do certain things that the TUP would in fact allow them to do – this is bad law and practice, Council has a responsibility to future-proof and consider worst case scenarios, and the creation of precedents that could be used by all sorts of people. It also fuels and encourages disagreement and conflict that becomes personal and destructive of community.

AGRITOURISM vs developing and promoting an authentic agricultural identity for Bowen

-
- serious questions, re authenticity – local content of cider product, TUP language actually allows for production of cider as a local product when it contains not one Bowen Island apple
 - we'd like a clear answer to Councillor Fast's question re the "other business" portion of the TUP, re owning, leasing, contracting; also, is the business ownership (Riley's Cider) separate from applicants as owners of property – other investors, interests? Applicants suggested business development would be shared and limited by the fact they are most impacted as residents of site – but if there are other investors, owners, lenders, whose care doesn't extend to neighbourhood as actual residents themselves, who might seek to optimise and push for profit in ways even more destructive to the residential interests of neighbours, where applicants fiduciary responsibilities oblige them to satisfy their investors or partners or lenders first – applicants have opened door to these questions by suggesting their residence a factor in how this business would work, also with saying they had connection to orchard in Similkameen that from what was said would provide some of the 25% business contribution and then another 75% from other Similkameen sources(or the same one?) Also in social media accounts of business, applicants describe it as an enterprise of family and friends
 - presentation – incl mail out seeking public comment – that says the proposed cidery will utilize the existing apple orchards on site to produce cider for sale on site ...appear misleading, and to promote this application on somewhat questionable terrain
 - we'd hate for Bowen Island brand to become about inauthentic products - "local" becoming like fruit juice description of fruit juice drinks – a selling device, confusing consumers
 - sustainability – surely about knowing and respecting nature's limits? in applicants own presentation and in informed expert opinion of Andre Chollat – Bowen doesn't seem to be the correct growing region for cider production, and it can't be accomplished in this case without importing majority content of prepared fruit juices from Similkameen - nature is telling us that cider isn't something that can be commercially produced on Bowen