



To: Mayor Ander and Council

From: Daniel Martin

Date: February 8, 2021

Meeting Date: February 23, 2021

Subject: **620 Laura Road**
Rob Purdy & Christine Hardie
LOT 1 BLOCK D DISTRICT LOT 492 PLAN 2250
File No. TUP-2021-0017

RECOMMENDATION

That notice be given that Council will be considering the issuance of Temporary Use Permit TUP-2021-0017 for cidery use for 620 Laura Road, legally described as LOT 1 BLOCK D DISTRICT LOT 492 PLAN 2250, PID: 015-026-701 at the March 22, 2021 meeting of Council.

That Council authorize staff to give notice for the consideration of issuance of Temporary Use Permit TUP-2021-0017 for cidery use for 620 Laura Road, legally described as LOT 1 BLOCK D DISTRICT LOT 492 PLAN 2250.

PURPOSE

To provide details regarding a Temporary Use Permit application to allow cidery use to enable the operation of a cidery at 620 Laura Road.

BACKGROUND

620 Laura Road is a 5-acre property located on the intersection of Laura Road and Westside Road. The owners are in the process of establishing an apple cidery, and in January 2021 applied for a Temporary Use Permit (TUP) for cidery use on the property for a three-year term. The owners subsequently intend to apply for a rezoning, to make the temporary land use a permanent change.

The apple orchard was established by the previous owners of 620 Laura Road, John & Josephine Riley, who established an orchard on approximately 1 acre of land consisting of over 1,000 apple varieties. The current owners have supplemented those plantings with an additional 1 acre of apple trees.

Figure 1 – 620 Laura Road Context



Figure 2 – TUP Site Plan



DETAILS OF APPLICATION

Owner/Applicant:	Rob Purdy & Christine Hardie
Subject Property:	620 Laura Road
OCP Designation:	Rural 1
Zoning:	Rural Residential 2
DPA:	The property is partially located in a Development Permit area. No current work envisioned requires a Development Permit, but future expansion could conceivably require a Development Permit.

The Rural Residential 2 zone allows for *Agriculture* as a permitted principal use. *Agriculture* use is defined as:

“AGRICULTURE” means the *use* of land, *buildings* or *structures* for the growing, rearing, producing or harvesting of crops, livestock and other animals subject to Provincial Regulation and includes the processing and sale of products harvested, reared or produced on that *lot* and the storage of machinery, implements and supplies for use by the agricultural operation, but excludes *intensive agriculture, horticulture* and *vineyard*.

“Cidery” is not a defined use in the Bowen Island’s Land Use Bylaw. “Winery” is a defined term (but is not permitted in any zone) as follows:

“WINERY” means the *use* of *buildings* and *structures* for the production of wine, at a *winery* facility licensed by the Liquor Control and Licensing Branch, where at least 50% of the wine production comes from grapes grown at the *vineyard* on the same *lot*, or from another *lot* which is part of the same *vineyard* business. Imported British Columbia grapes used in the *winery* shall be limited to no more than 50% of wine production. A *winery* may include *winery* tours, wine tasting, wine sales, and the sale of *winery* promotional products

Properties within the Agricultural Land Reserve are permitted, through the *Agriculture Land Reserve Use Regulation* to operate a cidery, licensed under the *Liquor Control and Licensing Act* provided a least 50% of the product is harvested where the cidery is located.

Official Community Plan Policies

A number of OCP policies and objectives speak to supporting agriculture activities, as follows:

Objective 80

To encourage commercial and domestic agriculture in suitable locations, and to encourage local food production.

Objective 83

To promote sustainable active farming on lands with agricultural potential and to protect the resources necessary for such agricultural activity for:

- *purposes of domestic food production;*
- *preservation of open space and a rural atmosphere; and*
- *to contribute to a sense of community on Bowen.*

Objective 86

To encourage land uses that are compatible with farming to be established in conjunction with agricultural activity.

Policy 209

Productive and domestic agricultural use is encouraged in areas with agricultural capability, including the ALR as shown on Schedules C and C – 1. Domestic agriculture is acceptable on any property.

PROPOSED TEMPORARY USE

The applicant is requesting a temporary use of *Cidery* to enable creating cider from the existing apple orchard on the site. The applicant has received the required licenses from the LCRB and LDB to operate, based on the *Agriculture* zoning permission.

The applicant is seeking greater land use certainty through the provision of the *Cidery* permitted use. If successful in obtaining a Temporary Use Permit, the applicant intends to submit a rezoning application once the business is established. Staff identify two primary aspects that would not be permitted under the *Agriculture* zoning, which would necessitate this TUP, as follows:

- The supplement of apples coming from off the subject site. The *agriculture* use in the *Land Use Bylaw* requires that the product process comes from the same lot. In contrast, the *winery* definition permits that up to 50% of the produce may come from off site. This is similar to proposed *cidery* use;
- Potential retail of items not produced on that lot (for example merchandise for the cidery), so this use exceeds that of an accessory use to the *agriculture* zoning;

The building constructed has an area for manufacturing cidery, and a small space available for retail sales of cidery. The applicant is also preparing an adjacent outdoor space which could be licensed as a picnic area endorsement. The Liquor and Cannabis Regulation Branch allows this with maximum hours of operation from 9 a.m. until half an hour after sunset. The picnic area endorsement also requires a direct line of site from the interior of the cidery, must indicate the person capacity (a maximum of 30, or less depending on the terms of the licence), must be open to the air with clearly defined boundary, and is not permitted to have amplified sound.

PROPOSED CONDITIONS

Staff propose that certain conditions be placed on the TUP, to ensure that the scale of the cidery remains within the same scope as currently envisioned. These conditions are as follows:

- Maximum size of retail space – 50 sq. m. (Current size is approximately 15 sq. m.)
- Maximum area of exterior patio space (200 sq. m. (current size planned is approximately 60 sq. m))
- Required parking spaces to match the *Land Use Bylaw* requirements for cottage industry and artisan industry, which is 1 space per 30 sq. m. of floor area. Given the size of the building of approximately 70 sq. m. (~750 sq. ft.) this would require 3 parking spaces.

Staff also propose that the TUP contain a definition *cidery* use as follows:

“CIDERY” means the *use of buildings and structures* for the production of cider, at a *cidery* facility licensed by the Liquor and Cannabis Regulation Branch, where at least 50% of the cider production comes from fruit grown on the same *lot*, or from another *lot* which is part of the same business. Imported British Columbia fruit used in the *cidery* shall be limited to no more than 50% of cider production. A *cidery* may include *cidery* tours, cider tasting, cider sales, a picnic area, and the sale of *cidery* promotional products

The applicant has requested a three-year term for a TUP, and staff support this request. The applicant also intends to submit a rezoning application before the expiration of the three-year term, should the business prove viable.

ADDITIONAL CONDITIONS

Staff have considered other conditions that could be placed on the TUP, either to match or surpass conditions placed by the Liquor Manufacturer Licence Terms & Conditions. For example:

- The Terms and Conditions restrict hours for sales and tours from 9:00am to 11:00pm. If concerns are raised regarding hours of operation, the TUP could further restrict hours the cidery is open to the public.
- Special event area endorsement. Although not part of the applicant's plans at this point, the Liquor and Cannabis Regulation Branch includes the option for a cidery to apply for a Special event area endorsement. The TUP could include conditions about a future Special event area endorsement, such as maximum occupancy, hours of operation, or a maximum number of special events to occur.
- Lounge endorsement. Although not part of the applicant's plans at this point, the Liquor and Cannabis Regulation Branch includes the option for a cidery to apply for a Lounge endorsement. The TUP could include conditions about a future Lounge area endorsement, including clarification if this use would be included in the TUP (as currently drafted the TUP would not permit the operation of a Lounge endorsement).

APPLICANT SUBMISSION – PERCENT OF FRUIT GROWN ON THAT LOT

Regarding the percentage of fruit that must be produced on the lot (or on an associated lot) the applicant has requested a change that is not incorporate into the draft TUP. The definition of *winery* currently in the Land Use Bylaw requires 50% of inputs be produced on that lot or an associated lot, and this requirement matches that found in land within the Agricultural Land Reserve (ALR). In contrast, however, the Liquor Distribution Branch requires in their [Sales Agreement](#) that a minimum of 25% of fruit “be owned or leased by you.” The applicant would prefer that the condition match their requirement from the Liquor Distribution Branch. Staff, however, prefer the condition match that of the ALR requirements. Staff support retaining the 50% threshold as it promotes greater use of the agricultural product from a particular lot, reduces need to import fruit to Bowen for the cider, and is more in keeping with the Rural Residential designation. Staff believe the change to 25% would be more in keeping as part of a rezoning application to change the land use designation to a Rural Commercial zone.

In the “Alternatives” section of this report staff have prepared a motion for Council to consider should they wish to amend the proposed *cidery* definition to match the applicants wishes. This change could also be considered in a future rezoning application.

FINANCIAL IMPLICATIONS

This application is not anticipated to have financial implications for the municipality.

COMMUNICATION STRATEGY

Notice of the proposed temporary use will be mailed to neighbours within 100 metres of the property. Notice will also be posted on the municipal website, and staff have prepared the sign to be placed by the applicant on the property. Members of the public will be able to provide written comment to Council regarding this application, or appear before Council at the March 22nd, 2021 meeting.

ECOLOGICAL/ENVIRONMENTAL/CLIMATE IMPLICATIONS

Encouraging at least 50% of the fruit be produced on the lot could lower emissions related impacts of importing fruit onto Bowen Island. Increased emissions from on and off Island visitation to the cidery could be expected. With objectives outlined in both BIM's Climate Action Strategy and the

Community Energy and Emissions Plan, the growing of fruit for alcoholic beverage production does not promote food security on Bowen Island.

ALTERNATIVES

Council has the following options available:

1. That Council authorize staff to give notice that Temporary Use Permit application TUP-2021-0017 will be considered by Council on March 22, 2021.
2. That Council direct staff to amend the cidery definition in TUP-2021-0017 to read:
“CIDERY” means the *use of buildings and structures* for the production of cider, at a *cidery* facility licensed by the Liquor and Cannabis Regulation Branch, where at least 25% of the cider production comes from fruit grown on the same *lot*, or from another *lot* which is part of the same business. Imported British Columbia fruit used in the *cidery* shall be limited to no more than 75% of cider production. A *cidery* may include *cidery* tours, cider tasting, cider sales, a picnic area, and the sale of *cidery* promotional products; and
That Council authorize staff to give notice that Temporary Use Permit application TUP-2021-0017 will be considered by Council on March 22, 2021.
2. That Council refer the application back to staff for further information;
3. Other options as determined by Council.

Attachments and References:

- Attachment 1 – Draft Temporary Use Permit TUP-2021-0017
- Attachment 2 – Draft Public Notice
- Attachment 3 – Applicant Letter
- Attachment 4 – [Liquor Manufacture Handbook](#)
- Attachment 5 - [BC Liquor Distribution Branch Sales Agreement](#)

Submitted by: Daniel Martin, Manager of Planning and Development

REVIEWED BY:

- CAO
- Bylaw Services
- Finance
- Fire & Emergency
- Parks & Environment
- Building & Planning
- Public Library
- Public Works
- Recreation & Community Services



TEMPORARY USE PERMIT

Permit No. TUP-2021-0017 Folio No. ###.#####.###

Issued to: Rob Purdy & Christine Hardie

Site Addresses: 620 Laura Road

The lands affected by and subject to this permit are shown on Schedule "A", Location Map, attached hereto, which forms an integral part of this permit, and are legally described as:

**LOT 1 BLOCK D DISTRICT LOT 492 PLAN 2250
PID: 015-026-701**

LIST OF ATTACHMENTS

- Schedule "A": Location Map
- Schedule "B": Site Plan
- Appendix I: Notice of Permit

AUTHORITY TO ISSUE

This Temporary Use Permit is issued pursuant to Section 493 of the *Local Government Act*.

BYLAWS SUPPLEMENTED OR VARIED

"Bowen Island Municipal Land Use Bylaw No. 57, 2002" is **supplemented** as follows:

1. Section 4.1.1 Principal Uses of Land, Buildings and Structure for Rural Residential 2 (RR2) zones is **supplemented** with the following:
 - a. Cidery

SPECIAL TERMS AND CONDITIONS

1. This permit is issued for the period of 3 years.

GENERAL TERMS AND CONDITIONS

1. Cidery Use is defined as follows:

"CIDERY" means the *use of buildings and structures* for the production of cider, at a *cidery* facility licensed by the Liquor and Cannabis Regulation Branch, where at least 50% of the cider production comes from fruit grown on the same *lot*, or from another *lot* which is part of the

- same business. Imported British Columbia fruit used in the *cidery* shall be limited to no more than 50% of cider production. A *cidery* may include *cidery* tours, cider tasting, cider sales, a picnic area, and the sale of *cidery* promotional products
2. Nothing in this permit shall in any way relieve the developer's obligation to ensure that the development proposal complies in every way with the statutes, regulations, requirements, covenants, easements, right-of-ways, and licences applicable to the undertaking.
 3. Nothing in this permit shall in any way relieve the developer's obligation to comply with all regulations for construction of structures (including the BC Building Code, BC Plumbing Code and the BC Fire Code) and requirements regarding the provision of on-site services pursuant to the *Public Health Act*, the *Fire Services Act*, the *Safety Standards Act*, and any other provincial statutes.
 5. No lounge area may be developed as part of this permit.
 6. The maximum floor area of retail space for the *cidery* use is 50 sq.m.
 7. The maximum area of exterior patio space to be used as a picnic area is 200 sq. m.
 8. The *cidery* use must provide 1 parking space for every 30 sq. m. of floor area
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SECURITY DEPOSIT

1. As a condition of the issuance of this Permit, and pursuant to Section 502 of the *Local Government Act*, the Municipality is holding the security set out below to ensure that development is carried out in accordance with the terms and conditions of this Permit.
 2. Should the holder of this permit:
 - a) fail to complete the works required to satisfy the conditions contained herein, and/or
 - b) contravene a condition of the permit in such a way as to create an unsafe condition,
 3. The Municipality may undertake and complete the works required to satisfy the landscaping conditions, or carry out any construction required to correct an unsafe condition at the cost of the holder of the permit and may apply the security in payment of the costs of the works, with any excess to be returned to the holder of the permit.
 4. Security Posted:
 - (a) an irrevocable letter of credit in the amount of: \$ N/A.
 - (b) the deposit of the following specified security: \$ N/A.
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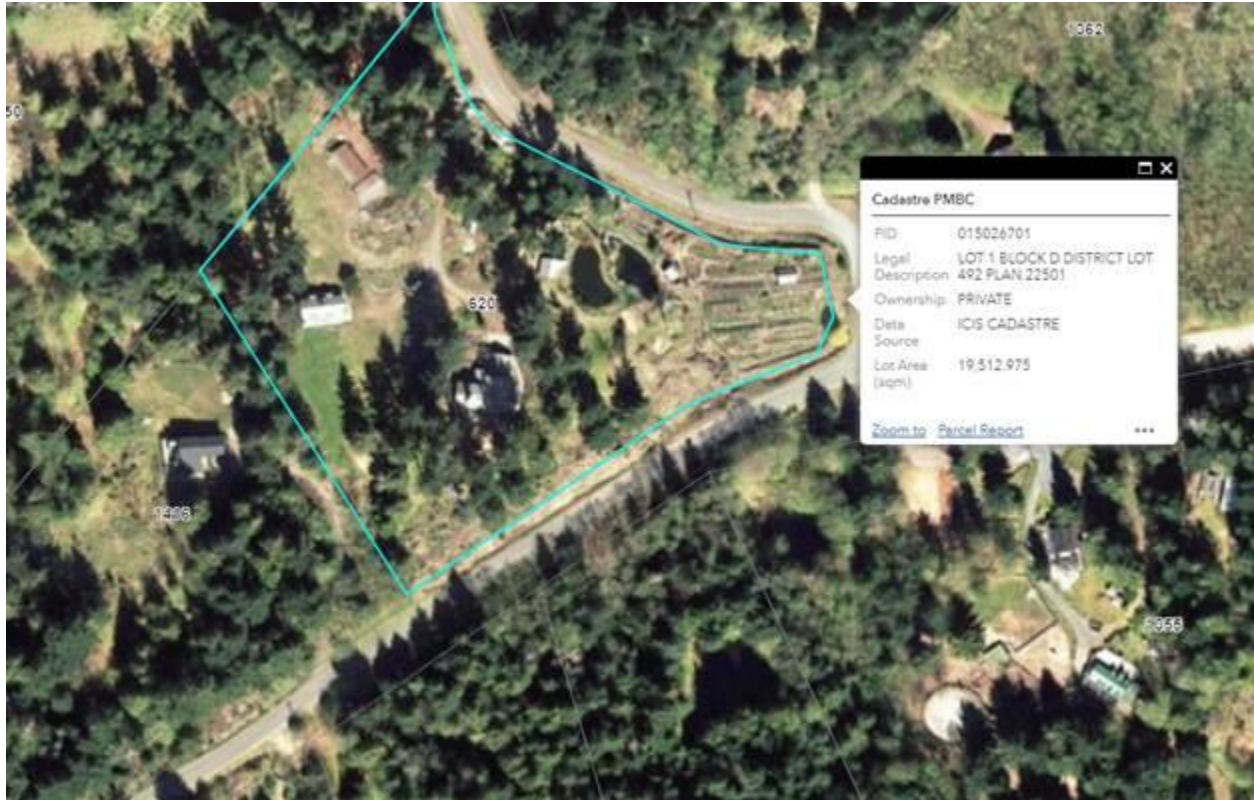
Note: Bowen Island Municipality shall file a notice of this permit in the Land Title Office stating that the land described in the notice is subject to Development Variance Permit Number TUP-2021-0017. The notice shall take the form of Appendix I attached hereto.

AUTHORIZING RESOLUTION PASSED BY THE COUNCIL OF BOWEN ISLAND MUNICIPALITY ON THE 22 DAY OF March, 2021.

Chief Administrative Officer

THIS IS NOT A BUILDING PERMIT

SCHEDULE "A" Location Map



SCHEDULE "B" Site Plan



SEEKING PUBLIC COMMENT

For TUP-2021-0017 – 620 Laura Road

PROJECT DESCRIPTION:

A Temporary Use Permit application has been submitted for **620 Laura Road** (shown on map) to permit a **cidery**.

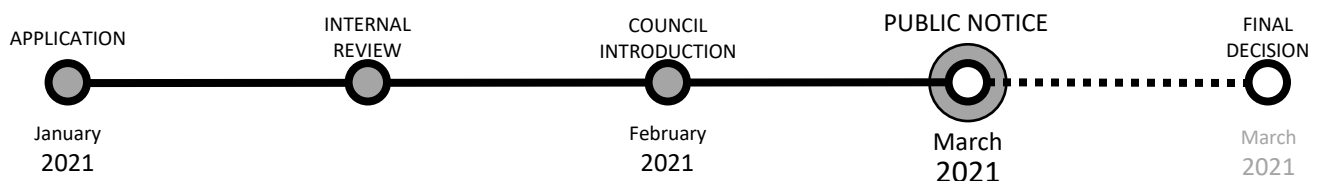
The proposed cidery will utilize the existing apple orchards on site to produce cider for sale on site or through the Liquor Distribution Branch. The cidery will be permitted to produce cider, provide on-site sales and provide tours of the cidery and associated orchard. An picnic area is proposed to be located adjacent to the cidery.



MORE INFORMATION AT MUNICIPAL HALL:

The application may be viewed at Municipal Hall between 8:30 AM and 4:30 PM, Monday through Friday (excluding statutory holidays) or on the Municipal website at <https://www.bowenismunicipality.ca/planning>.

TIMELINE:



YOUR COMMENTS ARE WELCOME:

Written submissions may be delivered to Municipal Hall (contact information below):

- In person
- By mail
- By fax
- By email to bim@bimbc.ca

Submissions may also be made to Mayor and Council at the meeting:

**6:15 PM on Monday, March 22, 2021
in Council Chambers, Municipal Hall**

To ensure a fair process, submissions cannot be accepted once the meeting has ended.

Questions? Please contact Daniel Martin, Manager of Planning and Development at 604-947-4255 or by email at dmartin@bimbc.ca

620 Laura Road
Temporary Use Application

To Mayor, Council & Staff,

This property has been owned by John and Josephine Riley for over 30 years, they purchased a vacant lot in the 80s and have been steadily establishing the impressive gardens and orchards that are now present. They collected hundreds of unique heirloom apple varieties from around the world and the orchard is now considered to be one of the most diverse in North America. Over the past few years the property was transitioned from John & Josephine over to us. In October 2019 we purchased the property with the intention of continuing the upkeep of the orchards and gardens, and to build on the legacy that the Rileys had established. The plan for the property is to establish a small business that will employ several island residents, to protect the unique biodiversity on the property, and to share this unique property with island residents and visitors for the purpose of education and enjoyment.

In 2018 a new cider orchard was planted on the property. With the addition of this orchard there are now approximately 2.5 acres of orchards and about 1,200 apple trees on the property. We plan to produce cider from the fruit on the property, other orchards on Bowen Island, and some fruit will be sourced from the Similkameen Valley – BC's organic fruit growing region. Our methods are organic, and we plan to pursue organic certification, a process that takes three years to complete.

We have been issued a cider manufacturing license from the Liquor and Cannabis Regulation Branch (LCRB) and have a land based cidery sales agreement in place with the Liquor Distribution Branch. We are utilizing an existing building on site for our cider operations, we completed some minor work on this building in 2020 and were issued an occupancy permit from BIM upon completion.

We will be naming business "Riley's Cidery".

Thank you for considering our application.

Regards,

Rob Purdy & Christine Hardie