



**PUBLIC MEETING NOTICE
FOR THE
WASHINGTON COUNTY PLANNING COMMISSION**

ZOOM VIRTUAL MEETING

WEDNESDAY, JUNE 17, 2020

PUBLIC MEETING 6:30 PM

NOTE: Planning Commission meetings are being held virtually, until further notice, via Zoom.

Join online: <https://us02web.zoom.us/j/88450212299>

Online participants will be able to see and hear the proceedings. Online participants' microphones will be muted, unless they are called upon to speak/testify. Participant cameras will not be activated at any time.

Join by phone: +1-346-248-7799 or +1-669-900-6833; Webinar ID: 884 5021 2299

Participants on phones will be able to hear the proceedings. Phone participants' microphones will be muted, unless they are called upon to speak/testify.

Prior to scheduled public hearing items, the Planning Commission conducts a Work Session to receive briefings from County staff. No public testimony is taken on Work Session items.

Following the Work Session, the Planning Commission considers agenda items, including scheduled public hearing items and consideration of minutes. The public is welcome to speak during the public hearings and time is limited to 3 minutes. The public may also speak on any item **not** on the agenda during Oral Communications. Time is generally limited to 5 minutes for individuals and 10 minutes for an authorized representative of a Citizen Participation Organization (CPO). The Chair may adjust time limits.

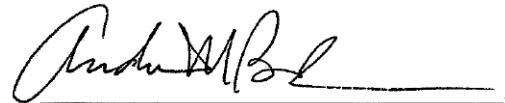
To provide testimony on agenda items or provide oral communication, please complete and submit the sign up form at www.co.washington.or.us/PlanningCommissionTestimony at least 24 hours before the start of a meeting.

To testify, either phone in or log in to Zoom. (See instructions above). When your name is called, your microphone or phone will be unmuted. You will have five seconds to begin speaking;

if you do not, the next topic/speaker will be called. Please follow these guidelines:

- When your name is called, state your name and home/business address for the record.
- Groups or organizations making a presentation must designate one spokesperson in the interest of time and to avoid repetition.
- When there is more than one speaker on any topic, please avoid repetition.

If you need a sign or spoken language interpreter, please call 503-846-3519 (or 7-1-1 for Telecommunications Relay Service) at least 48 hours prior to this event.



Andy Back

Planning and Development Services Division Manager

| PUBLIC MEETING DATES | |
|---|--|
| BOARD OF COMMISSIONERS WORK SESSIONS | PLANNING COMMISSION MEETINGS |
| 8:30 a.m. 1st and 3rd Tuesdays | 1:30 p.m. 1st Wednesday |
| 2 p.m. 4th Tuesday | 6:30 p.m. 3rd Wednesday |
| BOARD OF COMMISSIONERS MEETINGS | <i>Note: Occasionally it may be necessary to cancel or add a meeting date.</i> |
| 10 a.m. 1st and 3rd Tuesdays | |
| 6:30 p.m. 4th Tuesday | |



PUBLIC MEETINGS BEFORE THE PLANNING COMMISSION

WEDNESDAY JUNE 17, 2020 6:30 PM

ZOOM VIRTUAL MEETING

Join online: <https://us02web.zoom.us/j/88450212299>

Online participants will be able to see and hear the proceedings. Online participants' microphones and cameras will be muted, unless they are called upon to speak/testify.

Join by phone: +1-346-248-7799 or +1-669-900-6833; Webinar ID: 884 5021 2299

Participants on phones will be able to hear the proceedings.

Phone participants' microphones will be muted, unless they are called upon to speak/testify.

AGENDA

CHAIR: JEFF PETRILLO
VICE-CHAIR: MATT WELLNER
COMMISSIONERS: IAN BEATY, MARK HAVENER, DEBORAH LOCKWOOD,
ANTHONY MILLS, SUSHMITA PODDAR, AND ERIC URSTADT

PUBLIC MEETING

1. CALL TO ORDER – 6:30 PM
2. ROLL CALL
3. DIRECTOR'S REPORT
4. ORAL COMMUNICATIONS (Limited to items not on the agenda)
5. WORK SESSION
 - a. Short Term Rentals (STRs) update
6. PUBLIC HEARING
 - a. Ordinance No. 864 – Cideries and Breweries
An ordinance amending the Community Development Code relating to cider business and farm brewery standards.
7. PLANNING COMMISSION COMMUNICATIONS
8. ADJOURN

Department of Land Use & Transportation • Planning and Development Services

Long Range Planning

155 N. First Ave., Suite 350, MS14 • Hillsboro, OR 97124

Phone: 503-846-3519 • Fax: 503-846-4412

www.co.washington.or.us • lutplan@co.washington.or.us



June 10, 2020

To: Washington County Planning Commission

From: Andy Back, Manager 
Planning and Development Services

Subject: PROPOSED LAND USE ORDINANCE NO. 864 – An Ordinance Amending the Community Development Code Relating to Cider Business and Farm Brewery Standards

STAFF REPORT

For the June 17, 2020 Planning Commission Hearing
(The public hearing will begin no sooner than 6:30 p.m.)

I. STAFF RECOMMENDATION

Conduct the public hearing; recommend approval of Ordinance No. 864 to the Board of Commissioners (Board).

II. OVERVIEW

Ordinance No. 864 proposes amendments to the Community Development Code (CDC) to establish standards for cider businesses and farm breweries in exclusive farm use districts (EFU/AF-20) that the County must implement, pursuant to changes in state law.

The proposed CDC amendments would:

- Allow certain cider businesses and farm breweries broader allowances than currently permitted.
- Identify allowed additional activities and events that can be conducted on cider business and farm brewery tracts.
- Incorporate criteria and standards for operation of kitchens on cider business and farm brewery tracts.

Department of Land Use & Transportation
Planning and Development Services • Long Range Planning

155 N First Avenue, Suite 350, MS 14, Hillsboro, OR 97124-3072

phone: 503-846-3519 • fax: 503-846-4412

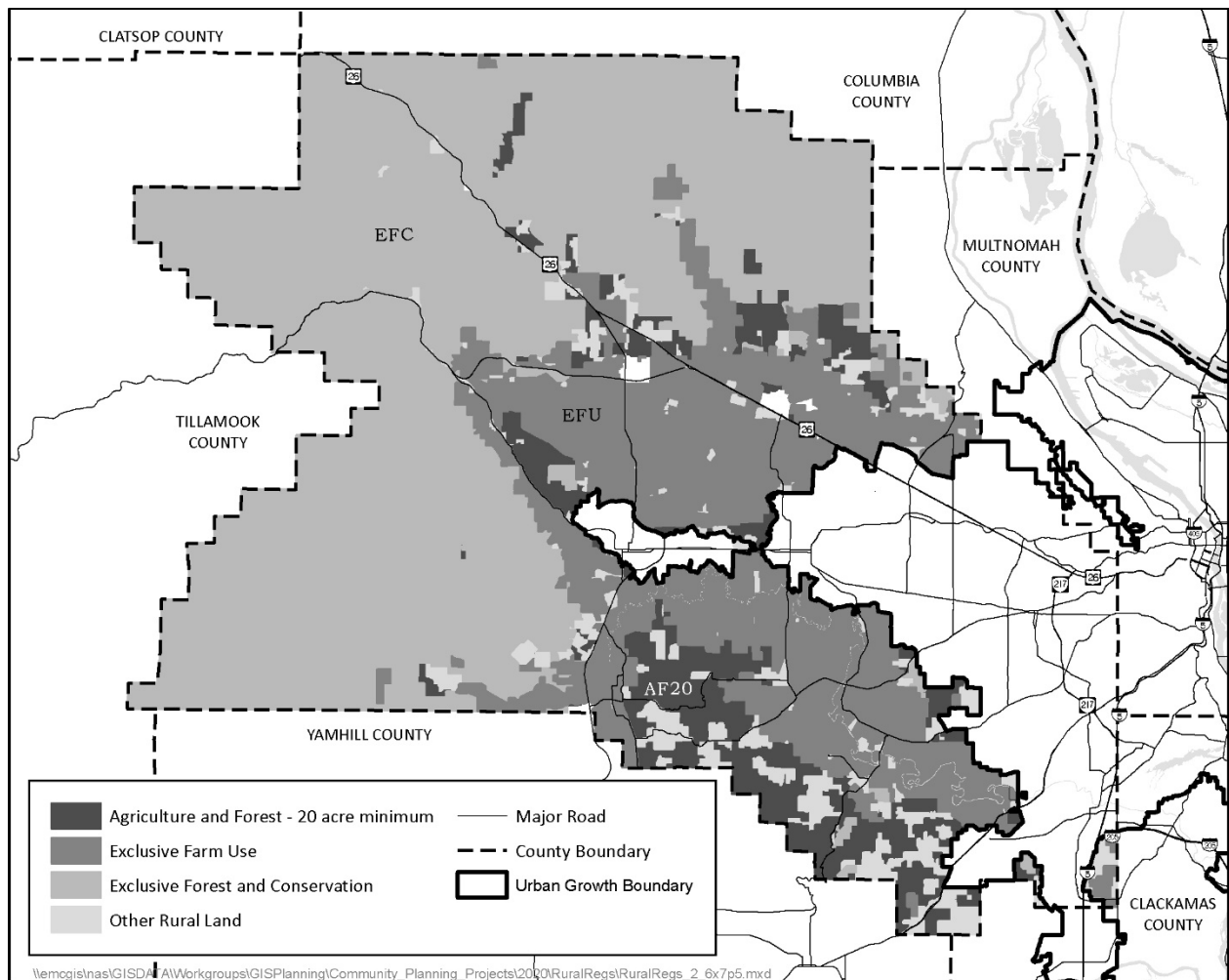
www.co.washington.or.us/lut • lutplan@co.washington.or.us

- Allow a bed and breakfast facility as a home occupation on a cider business or farm brewery tract (as an alternative to existing CDC standards that call for review as room and board arrangements).
- Incorporate agritourism or other commercial event standards that apply specifically to cider business and farm brewery tracts.

III. BACKGROUND

Washington County permits uses within farm and forest areas in accordance with state law. The County's exclusive farm use areas consist of the Exclusive Farm Use (EFU) District and the Agriculture and Forest (AF-20) District. Lands designated for exclusive farm use are primarily located in the central and southern portions of the County outside of urban growth boundaries (as shown in Figure 1).

Figure 1. Washington County Rural Resource Land Use Districts



Nonfarm uses in these districts are limited by state law. Production facilities for cider and malted beverages (including beer and other alcoholic beverages) may currently operate in EFU and AF-20 Districts as “Commercial Uses” in Conjunction with a Farm Use subject to certain standards. Such Commercial Uses must demonstrate compatibility with surrounding farm and forest uses (“Impact Test”). The ability of Commercial Uses to offer additional uses and activities for the general public, such as tasting rooms and events, is limited under this allowance.

Although not as numerous as wineries, there are a small number of cider producers active in Washington County and there is anecdotal evidence of interest in farm breweries. As these industries continue to expand statewide, the County is likely to see more of them. Some participants in the 2016 County-directed *Rural Tourism Study* suggested that providing additional uses and activities on rural land is key to drawing visitors from nearby urban areas to explore the County’s farms, farm stands, natural amenities, rural recreational opportunities and more.

The state adopted provisions in 2011 and 2013 to permit wineries to have tasting rooms and events, among other use allowances. These expanded provisions for wineries were incorporated into the CDC in 2017. Cider businesses and farm breweries in Oregon subsequently sought similar allowances.

Changes to state law to expand allowances for cider businesses occurred in 2017 through Senate Bill (SB) 677 and for farm breweries in 2019 through SB 287. The provisions of these bills are proposed to be incorporated into County code through Ordinance No. 864. State requirements are highly prescriptive and leave little room for counties to alter specified restrictions, allowances and conditions. The bulk of changes proposed in this ordinance come directly from provisions in SB 677 and SB 287 now found in Oregon Revised Statutes (ORS) Chapter 215, Sections 449 and 451.

The two bills were substantively similar: the use allowances are identical and mirror those allowed for statutory wineries, though the thresholds to qualify for each use differs. The bills balanced allowances for tasting rooms, beverage marketing events, and agritourism and commercial events, with restrictions on income earned from these incidental activities. Details about state law and how it translates to County code are included in the Analysis section of this report.

Stakeholder Outreach

Prior to drafting the proposed standards included in the filed ordinance, staff completed research on statutory provisions in both legislative bills and the production process for cider and craft brewing. Outreach to the following parties was also conducted: cidermakers and craft brewers active in Washington County, orchard and hop farm operators located in Washington County, and related industry associations including the local farm bureau, rural Community Participation Organizations (CPOs), and stakeholders identified during the *Rural Tourism Study*.

The roles of various other departments and agencies that may also have regulatory oversight of cider businesses or farm breweries were confirmed with those entities.

Ordinance Notification

Notice 2020-01 regarding proposed Ordinance No. 864 was mailed May 20, 2020, to parties on the General and Individual Notification Lists (CPOs, cities, special service districts and interested parties). A copy of the notice and ordinance was provided to the Planning Commission at that time. A display advertisement regarding the ordinance was published May 29, 2020, in *The Oregonian* newspaper.

IV. ANALYSIS

This analysis includes general information about cider and beer production and other regulations that apply to these uses. Detailed information about the statutory land use provisions proposed for inclusion in the CDC in this ordinance follows. A table summarizing the provisions concludes this Analysis section.

Cider and Brewery Production Facilities

Cider businesses and breweries share similar elements with wineries. All three kinds of production facilities prepare fruit and grains for fermentation. Once the fermentation process is complete, the resulting alcoholic beverage is bottled and prepared for storage and distribution. Tasting rooms where the resulting product can be tried prior to purchase are commonly collocated with the production facilities.

Other Regulations

In addition to considering land use regulations, a producer will need to address other regulations as well. The production, distribution and sale of alcohol, including cider, malt beverages and wine is regulated by the Oregon Liquor Control Commission (OLCC). Water supply and consumption necessary to produce cider and malt beverage products is subject to oversight by the Oregon Water Resources Department (OWRD) through local Water Masters. Treatment of production wastewater is subject to regulation by the Oregon Department of Environmental Quality (DEQ) and the Washington County Environmental Health Division.

Additional uses and activities, such as food service and accommodations, are subject to oversight by the Environmental Health Division of the Washington County Health and Human Services Department and may require inspection and/or the issuance of permits to operate.

Statutory Provisions for Cider Business and Farm Brewery Uses in Exclusive Farm Use Districts Overview

As noted above, Ordinance No. 864 proposes to amend the CDC, primarily to reflect provisions of state law that the County is required to implement for farm breweries and cider businesses in **exclusive farm use districts** (EFU/AF-20). Article III of the CDC establishes all allowable uses in each land use district. This ordinance therefore proposes amendments to Section 340

(Exclusive Farm Use – EFU District) and 344 (Agriculture and Forest – AF-20 District) to allow cider business and farm brewery uses.

CDC Section 430 (Special Use Standards) lays out standards for specific allowed uses that are in addition to the general standards located elsewhere in the code. Two new subsections are proposed in the Special Use Standards Section and are the focus of this analysis: Section 430-28 for Cider Business uses and Section 430-45 for Farm Brewery uses. These standards are modeled on the winery standards adopted in 2017 by B-Engrossed Ordinance No. 815 and codified in subsection 430-145.

Establishment of a Permitted Use on Exclusive Farm Use Land

In order to establish the use, state law identifies unique qualifying thresholds for cider businesses and farm breweries based on the scale of the operation. Additional approval criteria also apply. A cider business or farm brewery established under these standards is permitted to conduct uses not currently allowed. A facility that cannot meet the qualifying thresholds and approval criteria below may apply for land use approval consistent with the standards for a Commercial Use in Conjunction with Farm Use (Section 430-33).

Establishment of a Cider Business (Section 430-28.1) or Farm Brewery (Section 430-45.1)

Statute describes qualifying provisions that apply in order to establish a cider business or farm brewery in exclusive farm use areas. There are two key elements, one related to the facility's production level and the other related to how much fruit or hops is available to the facility.

A cider business that produces less than 100,000 gallons of cider annually must own or have access to a total of 15 acres of fruit, while a cider business that produces 100,000 gallons or more must own or have access to 40 acres of fruit.

A farm brewery can be established by operators making less than 150,000 barrels of malt beverages annually, including those produced elsewhere, when the farm brewery site produces less than 15,000 barrels and owns an on-site hop farm or obtains hops from 15 acres.

Additional Approval Criteria to Establish a Cider Business or Farm Brewery (Section 430-28.2/430-45.2)

In addition to the above qualifying thresholds, another set of criteria must be met in order to obtain approval to establish a cider business or farm brewery on exclusive farm use lands.

These approval criteria address:

- Setbacks to buildings and gathering spaces.
- Traffic access and circulation.
- Parking.
- When applicable, flood plains, significant natural resources, geological concerns, solar access, airport safety, open spaces, historic or scenic areas.
- General public health and safety.

Based on the wording in state law, counties are limited to the above criteria when determining whether a production facility can be established as a cider business or farm brewery. These criteria are essentially the same as those applied to wineries.

Allowed Uses and Activities (see also, summary table on page 9)

When a cider business or farm brewery is established as a permitted use that meets qualifying criteria, many activities *centered around the promotion of cider or malted beverages produced on the premises* are allowed without additional review. Examples include tasting events, site tours, dinners with the brewer/cidermaker and similar activities where promotion of the cider or malted beverages produced by the facility is the focus. Other activities requiring additional review and a license or subsequent permit are discussed below under *Agritourism or Other Commercial Events Subject to Additional Review*.

Related Uses/Activities Allowed (Section 430-28.3 B./430-45.3 B.)

A Cider Business or Farm Brewery established under these standards is allowed to conduct any of the following activities:

1. Market and sell cider/malt beverages produced on the tract.
2. Conduct operations, unlimited in number, directly related to the sale or marketing of cider/malt beverages produced (promotional activities) including:
 - (a) Tastings in a tasting room or other location on the premises.
 - (b) Cider/malt beverage club activities.
 - (c) Cider/malt beverage maker luncheons and dinners.
 - (d) Production facility and hop field/orchard tours.
 - (e) Meetings or business activities with beverage production suppliers, distributors, wholesale customers and industry members.
 - (f) Production staff activities.
 - (g) Open house promotions of beverages produced.
 - (h) Similar activities for the primary purpose of promoting the beverages produced.
3. In addition, state law allows the sale of certain incidental items and services, as long as income from these items and services does not exceed 25% of gross income¹ from on-site retail sale of beer/cider produced in conjunction with the cider business/farm brewery. These items and services include:
 - (a) Those required for licensing by the OLCC.
 - (b) Promotional activities (listed in #2 above) or charitable activities for which there is no facility rental fee.
 - (c) Agritourism or other commercial events (described below).

¹ The income cap is relative; in other words, the cap is based on the gross income of on-site retail sales from the uses listed in #1 and 2. For example, if annual on-site retail sales were \$100,000, the 25% income cap would be \$25,000.

Kitchen Facilities (Section 430-28.3 D./430-45.3 D.)

ORS 215.449/451 allow a Farm Brewery/Cider Business to include on-site kitchen facilities, licensed by the Oregon Health Authority (or designee), for preparation of food and beverages that are made available on-site along with:

- Consumption of cider/malt beverages per OLCC requirements;
- Authorized operations directly related to the sale or marketing of the cider/malt beverages produced; or
- Charitable activities for which there is no facility rental fee.

The statute prohibits these limited kitchens from “utilizing menu options or meal services that cause the kitchen facilities to function as a café or other dining establishment open to the public.” In addition to the above noted licensing requirements, development review as part of farm brewery/cider business land use approval would apply to this use.

Bed and Breakfast Operations on Farm Brewery and Cider Business Tracts (Section 430-28.3 C./430-45.3 C.)

The CDC already allows bed and breakfast facilities on exclusive farm use land through a discretionary (Type II) review procedure, but the state now provides cider businesses and farm breweries a specific review process for this use. ORS 215.449 and .451 allow bed and breakfast facilities on both cider business and farm brewery tracts in exclusive farm use districts as home occupations (which would occur consistent with the requirements in Section 430-63).

The state changes do not appear to affect the existing state-mandated five guest limit for room and board arrangements and the existing CDC specification requiring Type II review of home occupation permits. However, ORS provisions that permit review as a home occupation provide flexibility as to meal service, allowing it either at the bed and breakfast facility or at the cider business/farm brewery on the same tract. In addition to the new provisions in Section 430, Ordinance No. 864 proposes minimal related amendments to existing Type II EFU and AF-20 district standards, and to CDC Section 430-63 (Home Occupation) consistent with the above.

Agritourism or Other Commercial Events Subject to Additional Review (Section 430-28.4/430-45.4)

The County is required to allow agritourism or other commercial events on an exclusive farm use tract occupied by a farm brewery or cider business, subject to provisions of ORS 215.449 and .451. The description of what constitutes agritourism or other commercial events in state law is proposed for inclusion within CDC Sections 430-28/45 and is unique for each use.

State law and the adopted winery standards were followed closely in developing the proposed CDC standards for commercial events subject to additional review standards. Staff believes little flexibility or interpretation is possible relative to both what must be allowed and limitations the County may apply to these events. These agritourism and other commercial events differ from the more general agritourism standards in ORS 215.213 (11) that counties may choose to adopt.

Statute allows up to 18 days of agritourism or other commercial events per calendar year, incidental to the sale or promotion of the beer or cider produced by the farm brewery or cider business, subject to the following limits and requirements:

- Gross income from agritourism or other commercial events and services, including marketing and sale of food, beverages, and incidental items, cannot exceed 25% of gross income from on-site retail sale of cider/malt beverages produced.
- For events on the first six days, a renewable five-year **license** from the County (not a land use decision per ORS 215.449/.451).
- For events on days seven through 18, evidence that the above license for the first six days was obtained *and* a subsequent renewable five-year **land use permit**.

Agritourism or other commercial events at a cider business or farm brewery are subject to a limited set of conditions to ensure event activities do not significantly impact surrounding land uses and remain secondary to the production, marketing and sale of the beer or cider produced on premises. Consistent with state law, Ordinance No. 864 provides the ability to apply conditions on the number of event attendees, hours of event operation, access and parking, traffic management, sanitation and solid waste to be applied through the event license and/or permit review.

Staff identified some challenges to implementation related to statutory standards such as requirements for direct road access and for setbacks to be measured from *all* property lines. However, such standards are included in the state law and counties lack the authority to revise those provisions.

Although the *license* for events on days one through six is required within proposed CDC language and would be issued by Current Planning, the event license is not considered a land use permit as defined in ORS 197.015. A standardized application form for winery event licenses, currently under development, will be refined to address cider business and brewery license requests as well.

The table on the following page summarizes the various uses and activities allowed when establishing a cider business or farm brewery as a permitted use in exclusive farm use areas (EFU/AF-20 land use districts), as well as the applicable type of review procedure for each allowance.

| SUMMARY OF ACTIVITIES/USES ALLOWED AT FARM BREWERIES AND CIDER BUSINESSES ON EXCLUSIVE FARM USE LANDS PER STATE LAW | | | | | | |
|--|--|------------------------------------|--------------------------------------|---|--|--------------------------|
| ACTIVITY/USE | | AUTHORIZED BY | | | | |
| | | Establishment as a Farm Brewery | Establishment as a Cider Business | Renewable 5-Year Non-Land Use License | Renewable 5-Year Land Use Permit | Other Land Use Permit |
| <i>(This table provides a general summary and may not reflect all review criteria or approval methods that may be required/available for a given proposal)</i> | | | | | | |
| 1.a | Marketing and sale of malt beverages produced by farm brewery | ✓ | | | | |
| 1.b | Marketing and sale of cider produced by cider business | | ✓ | | | |
| 2. | Promotional activities, unlimited in number, directly related to marketing and sale of the facility's cider/malt beverages, including: | | | | | |
| | (a) Tastings on the brewery/cider business premises | | | | | |
| | (b) Cider/malt beverage club activities | | | | | |
| | (c) Maker/Brewer luncheons/dinners | | | | | |
| | (d) Tours of brewery/cider production facility, orchard/fields | ✓ | ✓ | | | |
| | (e) Business activities with cider/malt beverage suppliers, distributors, wholesale customers and beverage industry members | | | | | |
| | (f) Cider business/farm brewery staff activities | | | | | |
| | (g) Open house promotions of the facility's cider/malt beverage | | | | | |
| | (h) Similar activities conducted for the primary purpose of promoting the facility's cider/malt beverage | | | | | |
| 3. | Charitable events for which no facility rental fee is charged, subject to income restrictions | | | | | |
| 4. | Marketing and sale of items directly related to sale or promotion of the facility's beer/cider, marketing and sale of which is incidental to on-site retail sale of cider/malt beverage, subject to income restrictions | ✓ | ✓ | | | |
| 5. | Cider Business/Brewery-specific agritourism/commercial events where promotion of facility's cider/malt beverage is a secondary purpose, subject to income restrictions, as follows: | | | | | |
| | (a) One to six days of events per year | | | ✓ | | |
| | (b) Days seven to 18 (max) of events per year | | | | ✓ | |
| 6. | Food service as follows: | | | | | |
| | Kitchen facilities (not as cafés open to the public) for food service with: cider/malt beverage consumption (Liquor Control Act); operations directly related to sale/marketing of the facility's cider/malt beverage (shown in #2 above); or charitable activities absent a facility fee. | ✓ | ✓ | | | |
| 7. | Bed and Breakfast as Home Occupation | | | | | ✓ |
| 8. | Commercial Activity in Conjunction with Farm Use permit for farm brewery or cider business and associated uses/activities not meeting ORS 215.449/.451 (including production, acreage, income restrictions, or event criteria such as max days) | | | | | ✓ |

Summary of Proposed Changes

Ordinance No. 864 proposes updates to the Community Development Code for consistency with current state standards of ORS 215 that the County must implement for farm breweries and cider businesses in exclusive farm use districts (EFU/AF-20). Revisions incorporate the state's related allowances and rules for: promotional events and activities, limited service kitchens, bed and breakfast facilities (as home occupations); and agritourism and commercial event provisions.

Proposed amendments primarily affect Special Use Standards in the CDC, adding subsections addressing Cider Businesses (Section 430-28) and Farm Breweries (Section 430-45). CDC amendments are also proposed within Article III sections that outline land use district standards. These sections are amended primarily to conform with updates to Special Use standards. District standards reflect farm breweries and cider businesses as allowed uses, required review type, and reference applicable Special Use standards.

Additional amendments are proposed within CDC Section 430-63 (Home Occupation) to cross-reference related amendments in Sections 430-28 (Cider Business) and 430-45 (Farm Brewery). To accommodate the insertion of Farm Brewery standards into the Special Use section, the existing Section 430-45 (Flag Lot) will be renumbered to 430-46 and cross references to the standards for flag lots will also be updated accordingly.

Affected CDC sections:

- 340 (Exclusive Farm Use – EFU).
- 344 (Agriculture and Forest 20-Acre – AF-20).

The following subsections of Section 430 (Special Use Standards):

- 430-28 (Cider Business).
- 430-45 (Farm Brewery).
- 430-46 (Flag Lot).
- 430-63 (Home Occupation).



Jenny Backstrand <backstrandjenny@gmail.com>

(no subject)

Jenny Backstrand <backstrandjenny@gmail.com>

Tue, Jun 2, 2020 at 4:28 PM

Draft

June 2, 2020

To: Commissioner Jeff Petrillo,

To: Washington County Planning Commissioners

From: The Backstrand Family (Lifelong Washington County Residents)

Hello, We have lived in Washington County all our lives. We have lived at our current address for 31 years. We live 7/10ths of a mile from the newly approved Marijuana/Hemp PROCESSING facility in Yamhill County, on top of Chehalem Mountain, on a remote narrow gravel road with only one escape route out of the area, with steep cliffs on each side of the gravel road, on a protected aquifer, miles from the fire department and rescue.

WE NEED YOUR HELP.

In February/March 2020, I dropped off binders at Washington County Courthouse detailing what was going on at 18505 NE Jaquith Road and in Yamhill County Management. I left one binder for the Washington County D.A., & one for each Commissioner but the only two who kept them were Kathryn Harrington and Roy Rogers. The other 3 were returned to me by mail. I would be willing to drop them off for any 3 of you, if you need them. I believe a couple of you were mentioning these binders on your phone call with Ms. Cochran, Mr. Brandstetter and Mr. Thompson a couple weeks ago.

I was listening intently on the phone when you heard testimony from Laura Cochran, Erich Brandstetter and Richard Thompson (all 3 are my neighbors) a couple weeks ago. I was very happy to hear that you all seemed to have sympathy and concerns and were actually looking for ways to help and wanting to make sure this couldn't happen in Washington County. Well, this extremely dangerous facility is VERY CLOSE to many Washington County residents and threatens a lot of us, some right across the street on Jaquith Rd and on Mountain Top Road.

We fought long and hard to get Yamhill County to apply their existing "rules" and "regulations" to the Application of this Marijuana/Hemp Processing & grow site at 18505 NE Jaquith Road to no avail. We originally heard about it in late September 2019 and we gathered huge community support AGAINST this facility. But our concerns fell on deaf ears in Yamhill County. Except for one member of the Planning Committee (Mr. Sherwood) who voted NO. I doubt that most of the Planning Committee had time to read all 820+ pages in the time the County allotted them and some compared processing filberts and hay to processing marijuana and hemp.

In case you don't know, they use flammable Ethanol (in machines designed for use with Alcohol?) and combine equal amounts of plant material with Ethanol to extract the CBD oil from the hemp and the THC from the marijuana plants. They will be using massive amounts of Ethanol up there to process the hemp and marijuana in buildings that were built illegally with no permits or site design review through Yamhill County on property that lost it's ag/farm deferral on July 10, 2019. Supposedly this should have disqualified Yamhill County from designating 18505 NE Jaquith as "EFU" land but they pushed it through anyhow. The Planning Director deemed these 3 illegally built structures as "ag barns" - which kept the State Fire Marshall from inspecting them. Even though they were built ILLEGALLY and without any inspections. We have no idea WHO actually built them and if they were built safely. We doubt they were built to any kind of code....

Please read the email exchange attached between us and Mary Starrett (BOC in Yamhill County) regarding adopting some Time/Place/Manner rules/regulations NOW in Yamhill County. She keeps referring to AOC (Association of Oregon Counties) but they don't control what Yamhill County does. Please HELP US convince

them to pass some sensible rules regarding PROCESSING of Marijuana, like you all did years ago. There are some real inconsistencies with the way these 3 structures at 18505 NE Jaquith were illegally built, were approved (without an actual completed, signed or notarized ag application- which the applicant swears that some or all of the property is in ag/farm deferral) and that property lost its ag/farm deferral on July 10, 2019 for letting the ground go fallow. It should not be considered EFU land.

We need your help convincing these 3 Commissioners to protect the rest of us who live up here. The Planning Director in Yamhill County issued three phony permits on 9/11/19 saying these illegally built (and illegally operated 2015-2018 until they lost their water source (burned up the neighbor ladies well). The Planning Director went ahead and gave them the wrong occupancy code. If you see the photos of these 3 buildings, they ARE NOT AG BARNS. One is a former detached garage turned into chemical laboratory. Two are located too close together, hidden in the trees, next to many dead trees, no windows for escape, a ladder between the 2nd and 3rd floors, etc. These are NOT AG BARNS as the Planning Director deemed them.

Yamhill County Planning Committee and the Board of Commissioners approved this anyway, even though there are a lot of discrepancies, missing application, etc. For some reason, Yamhill County Board of Commissioners failed to pass ANY Time/Place/Manner regulations regarding HB3400 and now this case is in LUBA for appeal. They continue to approve more of these processors and as far as we know, there are already 4 of them on the Yamhill County side of Chehalem Mountain.

Please read the attached email exchange between our family and Mary Starrett (Yamhill County BOC member). Please try to get them to pass some type of regulations that are affecting Washington County residents also. Washington County is right across the street and I have not met ONE person who approves of this fire/explosion threat up the road from our home.

We appreciate ANY help/advice you can give us. We don't want beautiful Chehalem Mountain to end up burned to the ground.

Sincerely,

Jenny & Jim Backstrand
21780 SW Wildflower Dr Newberg, OR 97132

Chehalem Mountain Lives Matter Too!



Jenny Backstrand <backstrandjenny@gmail.com>

HUGE FIRE FROM ANOTHER HASH OIL PROCESSOR.....What are you going to do?

Jenny Backstrand <backstrandjenny@gmail.com>
To: Mary Starrett <starrettm@co.yamhill.or.us>
Cc: kullac@co.yamhill.or.us, olsonr@co.yamhill.or.us

Tue, Jun 2, 2020 at 3:14 PM

Dear Commissioners Mary Starrett, Rick Olson and Casey Kulla,

Ms. Starrett, We are glad that you share our concerns, but we do not feel that our concerns have been addressed as you indicate. We are alarmed that the Yamhill County Commissioners are **avoiding** putting in Time, Place, and Manner marijuana regulations when you have the authority under HB3400, to do so, and as citizens we have requested that Yamhill County consider implementing these types of marijuana regulations.

WHY do you keep implying this dangerous problem is only fixed at the State level? We know that **ALL** other Oregon Counties prepared for marijuana & hemp Growing / **PROCESSING** restrictions and rules **EXCEPT for YAMHILL COUNTY**. WHY is that? **WHAT does Yamhill County gain by NOT passing some regulations?** (I suggest the following 3 regulations/rules should be your first 3 to start with):

1. **NO Marijuana / Hemp PROCESSING on EFU land in YAMHILL COUNTY.**
2. **At least 1000-2000 foot setbacks to residences for hemp/MJ growing & processing (just like setbacks for schools, etc. in YAMHILL COUNTY).**
3. **NO hemp/marijuana growing or processing on land that is located on a protected aquifer IN YAMHILL COUNTY. (i.e. Chehalem Mountain)**

There are 3 sensible suggestions right there....I wrote those in 5 minutes, **you can do it too.**

Please tell me what's "in it" for YAMHILL COUNTY to NOT do this simple action? What's "in it" for your Planning Director, Planning Department, Code Enforcement Department, The Planning Committee Members and The Yamhill County Board of Commissioners? WHY aren't you protecting the rest of us who live here? Please tell me... I'd love to know what you will be losing to pass some common sense rules to protect the rest of us? **WHY IS THIS ONE PROPERTY (18505 NE Jaquith) SO VALUABLE TO YAMHILL COUNTY?** Why are you willing to endanger every other person who lives up here in order to help this one address regardless of the extreme fire/explosion threat to ALL the rest of us?

Meanwhile, you are allowing more and more of these fire & explosion risk operations to be approved in YAMHILL COUNTY - **BECAUSE of your FAILURE to act!** Not to mention the extreme risks to Tualatin Valley Fire & Rescue Employees and First Responders who will arrive to battle a chemical fire/explosion and the fire danger to our wildlife, the environment, our homes, our livestock, our pets and the residents in the event of a chemical explosion from the Ethanol Processing and a resulting fire that is located 14 MILES FROM THE TILLAMOOK STATE FOREST, which are connected by Forests direct from 18505 NE Jaquith Road. Do you remember hearing about The Tillamook Burn of 1934? WE DID! We don't want Chehalem Mountain to end up like The Tillamook Burn. (aka The Tillamook Forest.....)

Why is the Yamhill County Board of Commissioners and your Planning Department so intent on wrecking Chehalem Mountain for ALL of us? **PLEASE PASS SOME Time/Place/Manner rules IMMEDIATELY!** WHY ARE YOU ALLOWING THIS TO CONTINUE? Please stop trying to blame it all on the State level laws. **YAMHILL COUNTY** is responsible for their lack of action **by not passing ANY rules in regards to Marijuana/Hemp Processing and Growing.** AOC (Association of Oregon Counties) does not have the power

to pass any rules for individual counties. **YOU 3 ARE RESPONSIBLE FOR THAT!** So please stop trying to blame the problems on "the State". The problems originate in YOUR COUNTY under YOUR WATCH.

Under the current lack of marijuana regulations in Yamhill County, the 18505 Jaquith Rd property can basically go unregulated in the middle of our rural residential community and this case should be a lesson for us all, that these are not the type of businesses that we want in the middle of our rural homes. And with the extreme threat of fire and explosions - our concerns are valid. Especially with the location of neighboring homes. **Why is this one business able to threaten all of the rest of us and the BOC doesn't think it needs to intervene and shut down these loopholes down BY PASSING SENSIBLE TIME/PLACE/MANNER REGULATIONS & RULES?**

And there are SERIOUS problems with the way your planning staff operates. Your suggestion/directive of putting your Planning Director in charge of complaints/issues regarding 18505, is that you effectively **put the fox in the hen house**. He won't do anything to protect the rest of us, he has already demonstrated to ALL of us that **we don't matter**. He has effectively bent over backwards in every way to accommodate this ONE address/business entity..... He omitted your supposed application/permitting "**requirements**" in 100% favor of the Applicants at 18505 NE Jaquith Road. **WHY?** Can you look into WHY this would be happening? **Is there some incentive that we (or you) don't know about?** Can you see how this looks to ordinary, law-abiding tax payers?

The Planning Department cost the taxpayers more money in legal fees fighting to include my husbands legitimately submitted letter in the record that the planning Department claimed was "not received" in its entirety. Luckily, the LUBA (Land Use Board of Appeals) agreed with us that my husbands letter had to be submitted in its entirety (not just one page like they tried to do) but it shouldn't have to cost the residents legal fees to get him and his staff to "do the right thing". The County should have to reimburse Ms. Cochran for her legal fees getting these documents submitted into the LUBA record. Why are taxpayers effectively paying these employees salaries **AND** having to hire attorneys to get them to do their jobs honestly? We think that possibly my husbands questions about the lack of Engineered snow load codes and engineered wind side load codes on those 3 illegally built structures (called ag barns by Yamhill County) were something they might not want submitted into evidence to LUBA. But we aren't sure.....I guess maybe you should ask the Planning Department what happened????

1. Is this just "business as usual" in Yamhill County Planning Department, Code Enforcement and Management? Is this how your Planning Director/Staff always operate and were discovered this time because the community is actually paying attention to what they are doing in Yamhill County regarding 18505 NE Jaquith? (SDR-28-19)?
2. Is there a way for the public to file objections within the State (since Yamhill County Planning doesn't seem to follow their own permitting rules) that those 3 permits were phony on the "ag barns" that are really an **unpermitted** remodeled garage turned Chemical Refinery Laboratory, An **unpermitted** Factory? An **unpermitted** Grow House (with unpermitted wiring, unpermitted structural permits, unpermitted anything! , using hot grow lights so they can get extra profit from the "flowers" they grow). Isn't there a standard that those structures have to be inspected and built a certain way, requiring actual **un-corrupted inspectors** to INSPECT and APPROVE them along the way..??

Can we build 3 structures in Yamhill County with no permits and come in years later and get 3 phony permits like your planning director approved at least 3 times for the owners of 18505 on September 11, 2019? Those phony permits state that these were remodels were starting on 9/11/19...Those unpermitted structures were **completed illegally** by the previous owner and he **operated GROWING/PROCESSING MARIJUANA illegally** between 2015-2018. Your planning director had to have known that no new "remodel" was going to take place, if he inspected them? ...They were already completed. He should have ordered that they be dismantled and torn down to the ground. **Also, that land was supposed to be in ag/farm deferral also at that time to qualify for AG BUILDINGS and it wasn't as of July 10, 2019,** yet he still approved those buildings as "ag buildings" apparently **to keep a TVFR fire marshal from inspecting them or ? WHY?** Those 3 buildings (and the residence) are missing over 35+ permits, they will be using flammable Ethanol in Processing the Hemp/Marijuana in the former garage. Doesn't that concern you? It should.... **YOU ARE ALL AWARE OF IT NOW...DO SOMETHING.**

3. Your Planning Director (who **YOU** put in charge of regulating 18505.....) failed to get the REQUIRED 3 page Ag

Application completed by the Applicant. They didn't sign it or get it notarized (which is supposedly REQUIRED?????). And the Planning Director only submitted 1 page of the required 3 pages into the record. Can we do that too? If not....WHY?

Also Ms. Starrett, you previously stated in an email to me that you looked for any reason to deny SDR-28-19. Why didn't you do one or more of the following?

1). You could have demanded/instructed the Planning Director and his Supervisor at Yamhill County Planning to CORRECT the occupancy codes on the 3 illegally built/remodeled structures (missing 35+ permits and site design reviews) instructing them to correct the phony "ag barn" occupancy codes which effectively keep TVFR from inspecting these buildings for safety. One is a chemical laboratory, the others were also built illegally, too close to each other, no windows, no escape from the three story structure in a fire, etc. That would have triggered the TVFR to inspect them and disqualify them from being EFU land.

2). You could have demanded that WAG, llc actually **complete, sign and have notarized the 3 page REQUIRED Ag Application** which the Applicant has to swear, in writing and notarized, that some part of the property is on Ag/Farm Deferral....This property lost it's Ag/Farm Deferral on 7/10/19 and the 3 phony permits issued by Ken Friday on 9/11/19 were void. Which would make them invalid to process marijuana/hemp because they aren't EFU land anymore. But you didn't do that either.

3) You could have required the whole process to start over on 11/23/19 when the actual "APPLICANT" (Christopher Bryan) **finally signed the Application**. But the Planning Department kept plowing full steam ahead, hurrying this whole process through their flawed system. The phony photos that were submitted in August 2019 trying to hide the illegal and unpermitted structures, you could have made them resubmit and start over at that time. But you didn't.....

Please see the email below that I sent to all 3 on the Board of Commissioners in March, 2020. Please re-read it and PLEASE ADOPT SOME RULES regarding Marijuana and Hemp PROCESSING and GROWING in Yamhill County. I suggest you ask Washington County Planning Commissioners for help with this, they could send you copies of what they adopted **years ago** to protect Washington County residents from this extreme fire/explosion threat.

Sincerely,

The Backstrand Family

CONCERNED RESIDENTS

PRIOR LETTER THAT WE SENT TO COMMISSIONER STARRETT

Dear Commissioner Starrett,

RE: SDR-28-19 18505 NE Jaquith Rd-Newberg

Thank you for your reply.

I appreciate that you found this application approval was a difficult decision and glad that there are some conditions of use that will be implemented but it would have been more acceptable if the Commissioners would simply have abstained from voting on such a project, noting that it brought too many public health and safety risks to the community. As an example, you noted that the State allows processing of marijuana and hemp is a farm crop and only the State can do something about this, yet the Commissioners have done nothing to assure us that they see this project as a public health and safety problem for our community and using this project as an example, Commissioners need to now do something about this.

Understanding citizen concerns regarding this property would indicate that all of our County Commissioners would heed the Oath that they have taken when they were voted into office which notes:

I will faithfully and impartially discharge the duties of my said office; that I will support the Constitution of the United States and the Constitution of the State of Oregon and all laws passed in pursuance of either; that I will

endeavor to secure economical expenditure of public funds sufficient in amount to afford efficient and economical administration of government in the county for which I have been appointed, and in each city, town, port, school district, union high school district, road district, irrigation district, water district, dock commission and all other municipal corporations within the territorial limits of my county; and that I will perform said duty without fear, favor or compulsion, and without hope of reward. **2017 ORS 294.615' Oath of commissioner** <https://www.oregonlaws.org/ors/294.615>

Commissioners who take an oath to uphold all County, State, and Federal Laws should do just that and Yamhill County Commissioners have ignored the will of the Yamhill County voters who opposed marijuana legalization.

- HB3400 was put into place by the Oregon legislature because marijuana is still a federally illegal drug and brings with it a lot of risks to our community. HB3400 gave all jurisdictions the right to put a referendum out to the voters to oppose marijuana production, processing, wholesaling and retailing. Yamhill County residents voted no on allowing commercial marijuana in their community when they voted for Measure 91, yet Yamhill County Commissioners ignored their rights by not pushing it back to the voters and by not implementing any Time, Place, and Manner marijuana regulations, therefore leaving all authority up to the State Laws. (HB3400 Section 133 Local Option) So there is something that you can do about this mess.

While other County's that surround us took the time to implement Time, Place, and Manner regulations Yamhill County did not and it has opened the door for out-of-state and local marijuana/hemp growers and processors to begin to take over our beautiful rural farm lands and has created some significant federal lawsuits. This is wrong.

As a citizen no matter what the outcome of the LUBA is with the Jaquith property I am requesting that Yamhill County Commissioners use their authority and put on their agenda to:

1. approve an referendum to send back to the voters of Yamhill County on whether they want recreational marijuana in their County understanding that those growers that are currently licensed in the County will be grandfathered in and or
2. an ordinance that would be approved by the County Commissioners to implement marijuana Time, Place, and Manner regulations, putting together a TPM citizen committee that would help define those regulations using other Counties as examples. I have attached a copy of Clackamas County and Deschutes County as examples- neither of these County's allow butane/ethanol marijuana or hemp processing in EFU and other zones, only in industrial zones. Please note that even with marijuana regulations in place Clackamas County has had to implement new regulations just to control the number of OLCC licenses per site address ZDO271 and Deschutes County has found this issue so problematic that they are referring it back to the voters in November of 2020. Washington County: <https://www.co.washington.or.us/LUT/Divisions/CurrentPlanning/medical-marijuana.cfm>
3. I would also ask that Yamhill County Commissioners through your own voices as well as through AOC Association of Oregon Counties who represents you begin immediately conveying to the legislature that there needs to be a moratorium put in place for Hemp grows and processing plants until regulations can be put into place to protect public health and safety.

Thank you for your considerations, as we have invested our life savings into our properties and we expect that those who represent us will protect those rights.

Jenny Backstrand

On Wed, May 20, 2020, 12:18 PM Mary Starrett <starrettm@co.yamhill.or.us> wrote:

Dear Ms. Backstrand,

This is a challenging issue and I understand your concerns.

I share them as well.

I feel that the concerns have been addressed to the extent the County was able.

While for the most part compliance is complaint- driven this application generated sufficient concern to warrant compliance checks and I have every confidence the County will be vigilant in that regard.

This is an issue that is now becoming more prevalent and more attention is needed at the State level.

I and other commissioners will be encouraging the Association of Oregon Counties to take this up for Legislative action.

I hope that gives you some measure of comfort going forward.

As far as your concern about application insufficiencies, I don't see us being able to address those at this point.

I hope we're able to make some progress at the State level.

Sincerely,

Mary Starrett

Yamhill County Commissioner

Phone: 503.434.7501

From: Jenny Backstrand <backstrandjenny@gmail.com>

Sent: Tuesday, May 19, 2020 1:31 PM

To: Casey Kulla <kullac@co.yamhill.or.us>; Mary Starrett <starrettm@co.yamhill.or.us>; Rick Olson <olsonr@co.yamhill.or.us>

Cc: jill.anderson977@gmail.com; lauracochran@juno.com; Erich Brandstetter <artofscience@gmail.com>; Lindsey Noss <interiorsbyinspiration@hotmail.com>

Subject: HUGE FIRE FROM ANOTHER HASH OIL PROCESSOR.....What are you going to do?

[This email originated outside of Yamhill County]

<https://www.dailymail.co.uk/news/article-8327389/Ten-firefighters-injured-multiple-buildings-ablaze-massive-explosion-downtown-LA.html>

To Yamhill County Commissioners Casey Kulla, Mary Starrett and Rick Olson,

IS THIS OUR FUTURE?

Have you added ANY Time, Manner & Place Rules yet?

Have you planned for a discussion on Time, Manner & Place rules yet?

I sent registered letters to each of you in March 2020, asking you to please do this, with no word from any of you, to date.

When are you going to add some restrictions like **EVERY OTHER OREGON COUNTY** has already done..... **years ago**? WHY haven't you done this?

Does the concerned community need to prepare some restrictions for you to adopt? If so, we will. Do we FORM A Citizen Committee? This is a ridiculous explosion and fire threat to Chehalem Mountain and if you can't even acknowledge that, then you shouldn't be in office.

There should be rules that these chemical refineries NEED to be inspected by TVFR (Tualatin Valley Fire & Rescue) BEFORE they are approved by YAMHILL COUNTY BOC. Since your planning director used a loophole and classified the illegally built and remodeled buildings as "ag barns" on September 11, 2019 which they clearly ARE NOT (see photos) and did it on a property that had already lost its ag/farm deferral in July 2019. Also, he failed to get the 3 page "AG application" that is supposedly **REQUIRED** by Yamhill County signed and notarized by WAG, llc.....You should be closing that loophole before he does it again.

HELP US before there is a tragedy on Chehalem Mountain. There are 4 of these already approved by you on Chehalem Mountain alone. Why aren't they located in an actual "farming" area with plentiful water? They shouldn't be allowed on top of a wooded mountain, with no fire hydrants, fire & rescue so far away and also on a protected aquifer.

Yamhill County should IMMEDIATELY adopt new restrictions. WHY aren't you listening to the voters in this community? This new crop should be reclassified to not be on a protected aquifer since it requires extreme amounts of water to grow. That's why you don't see corn or soybeans growing on top of mountains..... FIX THESE LOOPHOLES NOW!

Maybe you should start putting these explosion/fire risk in your own neighborhoods, if you think they are safe. Let's see some on Parrett Mountain and Grand Island. You are playing with fire, LITERALLY.

PLEASE CHANGE THESE LOOPHOLES NOW!

Sincerely,

The Backstrand Family

backstrandjenny@gmail.com