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April 12, 2023

**VIA EMAIL**

Chad Gray  
Larimer County – Code Compliance  
200 W. Oak Street  
Ft. Collins, CO 80521  
[grayxxcn@co.larimer.co.us](mailto:grayxxcn@co.larimer.co.us)

Re: FoCo Holdings LLC – The Blendings

Dear Chad:

As Mr. Haug (copied) knows, we are counsel to FoCo Holdings LLC (“FoCo”) with respect to zoning issues at The Blendings. We are in receipt of your April 5, 2023, email on behalf of Larimer County Code Compliance forwarding a complaint submitted on March 31, 2023, by Mr. Ken Ecton regarding number of vehicles at The Blendings on March 18, 2023 (the “Complaint”). Your email explains that: “[t]he videos that day show 14-16 vehicles which would be 28-32 trips. Can you please take a look at the videos and give a response?” We write now in response.

Summary of Complaint

The Complaint describes the alleged violation as follows:

Security camera documentation of 16 vehicles (32 trips) on Mar 18, 2023, to The Blending’s (over their 22 vehicle limitation). Due to county photo <4MB size limitation only 2 still photo of 10 vehicles in photo. Three additional videos, (4MB to 5.5MB) that you don’t accept on website that further document trips are prepared and available. Contact for direct transfer.

The photos not only document number of vehicles, but the pre-instructed parking of vehicles in the Hillside lot and a group movement(walking) to Blending’s for event, spend time there, then walking back from Blending’s to their cars parked together in the Hillside lot and group departure. A scheduled event with specific time and directions for the participants to park in the event parking



lot rather than Blending's parking. 2 county documents warning of 2 car limit.

With his Complaint, Mr. Ecton also submitted three different video clips taken at various times on March 18, 2023: (a) 1:28pm ("Video A"); 2:50pm ("Video B"); and (c) 5:25pm ("Video C") purporting to show this alleged violation:

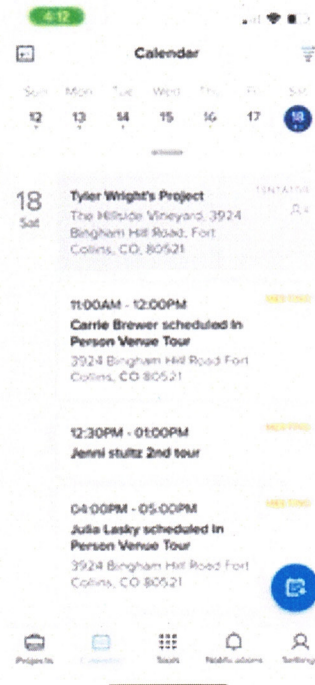
- Video A shows approximately four vehicles parked in the parking lot for the event center. At the same time, two vehicles are parked near The Blendings.
- Video B shows the *same* four vehicles parked in the parking lot for the event center. At the same time, only one vehicle is parked near The Blendings. A group of eight people is shown walking from the event center parking lot towards The Blendings.
- Video 3 shows *zero* vehicles parked in the parking lot for the event center. At the same time, nine vehicles are parked near The Blendings. One car is on the roadway; it is unclear whether this is another patron of The Blendings or a resident of the neighborhood.

#### FoCo's Response

There was no violation on March 18, 2023, for four reasons:

*First*, on March 18, 2023, FoCo hosted tours at the event center for prospective bookings in 2024 (i.e., couples touring event centers as potential venues for their weddings). As you know, the event center on FoCo's property is subject to a *separate* special review permit, and is not governed by the terms or conditions of the Aronia Project Special Review, including the vehicle trips per day guidance. To the extent the Complaint alleges that FoCo "pre-instructed parking of vehicles" in the event center lot, but then the group walked to "Blendings for *an event*", that is simply not the case.

A copy of FoCo's tour booking schedule is shown at the right. The image is a screenshot showing three different events: (1) "Carrie Brewer scheduled in Person Venue Tour" from 11:00am to 12:00pm; (2) "Jenni Stultz 2nd tour" from 12:30pm – 1:00pm; and (3) "Julia Lasky scheduled in Person Venue Tour" from 4:00pm to 5:00pm. Each of these calendar entries corresponds to an in-person tour of the Community Hall as a potential venue for weddings.







*Second*, the Aronia Project Special Review contemplates 22 “**additional**” trips per day on top of the baseline number of trips per day existing at the time the permit was issued. The Aronia Special Review permit discusses vehicle trips per day in two different places:

- For agritourism specifically, “[t]raffic generation is anticipated to be approximately 18 vehicle trips/ day on weekend and 5 vehicle trips/ day during the week. The uses together (i.e., the VAAP and Agritourism) are anticipated to create an **additional** 22 trips per day during peak season (June-August).” (Emphasis added).
- “The uses together (i.e., the VAAP and Agritourism) are anticipated to create an **additional** 22 trips per day during peak season (June-August).” (Emphasis added).

The permit language clearly shows that the estimated 22 vehicle trips per day is *in addition* to the existing vehicle trips per day. This interpretation is also firmly supported by the Minutes from the Planning Commission’s August 19, 2015, regular session meeting and the Minutes of the Board of County Commissioner’s October 19, 2015 Land Use Hearing. At the time the permit was issued, the existing vehicle trips per day were estimated to be “approximately 18 vehicle trips/day” on weekends and “5 vehicle trips/day” during the week. The 22 vehicle trips per day during peak season are on top of the existing traffic volume. This is the only interpretation of the Aronia Project Special Review that makes sense. Limiting vehicle trips per day to the **additional** 22 would ignore both the reference to the existing traffic volume (18 and 5) and the use of the term “additional.” Furthermore, as was made clear during the 2015 Board of County Commissioners’ hearing on the Aronia Special Review Permit application, there is *no limit* on how many vehicles trips the residence may have in regard to uses as of right (e.g., growing aronia berries, packaging those berries, etc.). Accordingly, during peak season, the actual number of vehicle trips per day allowed under the Aronia Project Special Review is 40 on weekends and 27 on weekdays.

*Third*, even if there were more than 22 vehicle trips to The Blendings on March 18, 2023 (which there were not), there still would not be a violation because the Aronia Project Special Review does not impose a hard limitation on vehicle trips per day, and only identifies *approximate* increases over existing vehicle trips per day. Both references to vehicle trips per day are stated in *approximations* – using phrases that cannot be read as hard limitations on the number of vehicle trips per day – e.g., “anticipated to create” and “approximately.” Slight variances in vehicle trip per day are not – and should not be – considered violations of the Aronia Special Review Permit.

*Fourth and finally*, the regulations concerning agritourism (which is permitted under the Aronia Special Review Permit) do not define “vehicle trips per day” and, therefore, construing that phrase with its commonly known meaning, 22 trips “in” are allowed. The “out” trips should, logically, not be counted as Mr. Ecton incorrectly suggests. This interpretation is supported by the Aronia Project Special Review language itself, which contemplates “5 vehicle trips/ day during the week” for agritourism. Of course, if vehicle trips per day is counted as each individual segment,



then every estimate would require even numbers – the 5 anticipated vehicles suggests this was not the original intent.

Please confirm that the Complaint is not a violation of the Aronia Project Special Review permit. We are also available to discuss the Complaint and the content of this letter with you in more detail. FoCo and we want to continue to work with you and Mr. Haug.

Sincerely,

Mark W. Williams

MWW/lk

cc: Frank Haug, Esq. ([haugfn@co.larimer.co.us](mailto:haugfn@co.larimer.co.us))