

JUN 26 2007

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CLERK OF THE
BOARD OF SUPERVISORS

6-26-07 Dale Smith Testimony - BOS
Temporary Outdoor Events Permit (Section 17.56.300.B.a.b.)

Honorable Supervisors, I'm Dale Smith, 3410 Sunshine Way, Auburn. I've been here at least 100 times over the past 12 years, but no appearance has ever caused me so much distress. You may make a very far reaching and possibly damaging decision to change this ordinance, an action that could have grave consequences for many. I hope not.

New language eliminates one of the most important phrases in the original ordinance, *(show it)* on the back side of the Temporary permit application. Section 3-f reads:



Several pages of very strong language have been reduced to one very short paragraph in 17.56.300, *(Show it)* and the most notable **textual fatality** is the elimination of strong, exact language to handle the problem of alcohol consumption at such events.

Along with these changes are many more that will allow for parties, weddings, conferences, wine dinners, meetings, and most dangerous of all – wine tasting tours which will surely lead to DUI arrests. A few drinks here, drive to another winery, more drinks, drive to another, . . . **you get the picture**. And if one picture is worth a thousand words, here's 6000 for you to see that speak to this issue. *(Hand over the package)*

On the one hand the County is doing everything possible to crack down on drunk driving, but you just may make it possible for people to go from wine venue to wine venue, **no you will be encouraging that** unless you take positive action to restore the correct provisions to the Outdoor Permit process.

A bit of email history already in the record is revealing, like the one from the CEO. *Quote:* “There was a general agreement (last summer?) to hold in abeyance any CE actions because of a proposal crafted by a consortium of vineyard / winery owners (with concurrence of our Ag Commissioner) to amend the current code. Any movement on that revisit?”

Another of your Staff, wrote about the consumption of alcohol at such events: **“Enforcement of this issue rests squarely within the regulatory authority of the ABC, and it is completely outside of the County's regulatory authority.”** Is that true? Will courts in the future find that Placer County encouraged the intake of

PLACER COUNTY CODE

SEC. 5.102 APPLICATION FOR PERMIT AND FEE

1. It shall be unlawful for any individual, partnership or corporation to operate, maintain, conduct, advertise, sell or furnish tickets or other types of written authority for admission to a temporary outdoor event (not more than three consecutive days, and not more than two times in one location in a given calendar year) in the unincorporated area of the County unless first obtaining a Permit from the County of Placer to operate or conduct such an event.
2. Application for a Permit to conduct a single temporary outdoor event as defined herein shall be made in writing to the County Planning Department on an application form prescribed by them. Applications for other or more frequent events shall be subject to the permit requirements of the Placer County Zoning Ordinance.
3. Applications submitted to the Planning Department for a Permit under this section shall be accompanied by a non-refundable application fee and shall contain the following information:
 - (a) The name, residence, mailing address and telephone number of the Applicant. If the application is made by a partnership, the names and address of all general partners shall be included. If the Applicant is a corporation, the application shall be signed by the President and attested to by the Secretary thereof and shall contain the names and addresses of all corporate officers, and a certified copy of the Articles of Incorporation shall be attached to the application. The address and telephone number of the principal place of business of the Applicant shall also be included in the application.
 - (b) A scaled site plan (8-1/2x11" or folded to that size) showing the location and assessor's parcel number(s) of the premises where the temporary outdoor event is proposed to be conducted, indicate existing buildings on the site, and show all lands to be used for parking or other uses incidental to the outdoor activity. The applicant shall submit proof of ownership of said premises or written consent of all owners thereof for the proposed use.
 - (c) The date and the hours during which the event is to be conducted.
 - (d) An estimate of the maximum number of spectators, participants and other persons expected to attend the temporary outdoor event for each day it is conducted.
 - (e) A detailed explanation of the applicant's program and plans to provide security protection (including that necessary to prevent trespass), water supply, food supply, sanitation facilities, medical facilities and services, fire protection, vehicle parking space, vehicle access and on site traffic control; and if it is proposed or expected that spectators or participants will remain at night or overnight, the arrangements for illuminating the premises and for camping or similar facilities; applicant's plans to provide for numbers of spectators in excess of the estimate, and provisions for cleanup of the premises and removal of rubbish after the event has concluded.
 - (f) A detailed explanation of the applicant's plan for policing the activity with particular emphasis on the control and prevention of alcohol and drug consumption.
 - (g) Expected noise levels at the nearest residential and/or property lines.

This application shall be filed with the Planning Department at least sixty (60) days prior to the time indicated for the commencement of the planned activity and no Permit shall be issued until heard and approved by the Zoning Administrator.

How will neighbors know about the application and zoning hearing when there is no notification to neighbors.

The County is ignoring their own application and foregoing public hearings.

NO PUBLIC HEARING.



17.56.300 Temporary Uses and Events

* * * * *

B. **Temporary Events.** Temporary events involve the use of land or a building for an event of limited duration (see the definition of "Temporary uses and events" in Section 17.04.030). Where allowed by Sections 17.06.050 et seq., (Land use and permit tables), temporary events are subject to the following requirements:

1. **Applicability**

a. **Commercial Recreational Events.** Temporary commercial recreational events such as circuses, carnivals, open air theaters, or other similar situations involving temporary large assemblages of people may be conducted in any district provided that a Minor Use Permit is first secured for the establishment, maintenance and operation of such uses. [Note: Provisions for permanent outdoor commercial recreation uses, rural recreation uses and sports facilities and outdoor public assembly uses are found in Sections 17.06.030 et seq., (Allowable land uses and permit requirements) and in 17.04.030 (Definitions).]

b. **Outdoor Festivals/Concerts, etc.** Outdoor festivals/concerts, arts and crafts fairs and similar short-term events may be authorized in any district provided that a Minor Use Permit is first approved for the event. However, for one-time events (not to exceed three consecutive days nor two times in one location in a calendar year), the Planning Director may approve a Temporary Outdoor Event permit in lieu of a Minor Use Permit. Detailed event information shall be provided including time, date, location, estimated number of participants, security measures and sanitation. Such information shall be provided by the Planning Department to the Sheriff, the County Health Director, Chief Building Official, Department of Public Works, California Highway Patrol, the Assistant Emergency Services Director, and appropriate state, federal, and local fire jurisdictions, prior to a decision by the Planning Director. Conditions addressed in Section 17.56.300 B4 a through d below may be required of any such event. [Note: These events differ from those described in Section 17.56.300(B)(1) in that they are of limited duration and do not require the construction of any improvements.]

* * * * *

F:\ZONING ORDINANCE\PC 4-12-07\Par 4-12-07-17.56.00 & 17.56.300 Antennae Comm Fnc & Temp Uses & Events.doc

*Current ordinance
17.56.300 B.4 says
All Temporary Events
"Are subject" to a third*

*Staff says this paragraph captures
the essence of 5.100-5.106 and
wants to replace 5.100-5.106 with
the underlined language.*

Bill Schulze – Re: Pescatore Winery MUP 2511 - ? (was unclear on copy

>>> Bill Schulze 3/21/2006 8:58 AM >>>

Tom, Michael,

We received a complaint on the above referenced winery. The owner of the winery Steve Wegener has stated that he has met with Tom Miller October 2005 and this action should be on hold.

We have received a renewed complaint and inquiry why we have not acted on this matter. The person filing the complaint has asked Code Enforcement to take legal action as the winery is not operating to the conditions of the MUP. The violation is advertising public wine tasting which is not allowed by the MUP.

Please advise, Thanks, Bill Schulze

CC: Michael Johnson

From: Tom Miller
To: Bill Schulze
Date: 3/22/2006 7:44:17AM
Subject: Re: Pescatore Winery MUP 2511

There was a general agreement (last summer?) to hold in abeyance any CE actions because of a proposal crafted by a consortium of vineyard/winery owners (with concurrence of our Ag Commissioner) to amend the current code. Michael- any movement on that revisit?

Think -- Placer County Supervisors before you help legalize such carnage



Four of my friends were going to a party. They pulled off the road because they saw someone swerving. The drunk driver crossed two lanes of traffic and slammed into their neon going 75mph. One of my friends died, the other one cannot walk, another has a broken arm and blood clots in her chest and the other has serious head injuries. The drunk driver fled on foot and had no serious injuries, he is now being charged with murder.

*Does anyone ever stop to think, **Hey I am going to kill someone today?** I doubt it... Maybe some people should think about that, perhaps drunk drivers. The next time someone drives drunk, they should think about the lives they could ruin. **R.I.P Danielle S. 11.14.04***



My Jeep deployed both of the air bags and with the help of the seat belt and shoulder harness I survived. Jeep didn't.

I fractured my sternum. Badly bruised my left knee and shin, and have whiplash. I missed one week of work, and the Doctor said it would be months before my chest felt good again.

The drunk has still not responded to my insurance Co. I hear he is back at the bar, everything as usual.

http://www.car-accidents.com/pages/accident_story/2-22-04.html

→→

There are about 17,000 alcohol related car accident deaths in the United States each year, a **drunk driving death every 31 minutes**. Alcohol was a factor in 39 percent of all fatal accidents and in 7 percent of all crashes in 2004.

Additionally about 248,000 people are injured in accidents where police reported that alcohol was present, thus **one person is injured in a drunken driving crash in the US --- every 2 minutes**.



I became a victim of a drunk driver while I was sitting at a traffic light. Car was VW Beetle. He fled on foot and left me to die.



↑ 90 MPH Crash after hitting 3 cars. The drunk left several severely injured



My mom was going 35mph, which was the speed limit on that road. The impact of the crash sent my mom's car back at least 40ft. **The accident was a double fatality.** The drunk driver turned out to be a 26 year old female who was coming home from a family party. I can't state enough on how hard it is to cope with something like this. There really isn't any closure. Please don't drink & drive.



They were going 120 mph at the time, and as they rounded a curve on the highway no one noticed the semi truck that was in their lane; they tried to swerve but it was too late, I don't think that they had time to brake, so they slammed into the back of the semi with the driver side of the car. The high bumper on the semi trailer literally sliced the roof off the car. After what saw, no more drinking and driving, and I'm talking not even a sip (for me drinking and driving is actually a little sip of beer.)

RECEIVED

JUN 21 2007

CLERK OF THE
BOARD OF SUPERVISORS



County of Placer
WEIMAR/APPLEGATE/COLFAX
MUNICIPAL ADVISORY COUNCIL
P. O. Box 1025 - Colfax, CA 95713
County Contact: Lisa Buescher (530) 889-4010

Bruce Kranz, Chairman
Placer County Board of Supervisors
175 Fulweiler Ave.
Auburn, CA 95603

June 20, 2007

Dear Supervisor Kranz,

The WAC MAC is deeply concerned about current Zoning Text Amendments in front of the BOS for your approval.

1. Sections 17.06.050 and 17.44.010 – Medical Services – Clinics and Laboratories

This Amendment arose to facilitate one Property Owner's Permit. Interestingly, Staff admitted to the Planning Commission of exploring many different solutions before this one was recommended. The Commissioners, unanimously recommend that you *not* approve this Amendment. The WAC MAC agrees. The Property Owners should seek to rezone their property or find another solution rather than have you effect a blanket change and impose a new provision that affects the entire County.

2. Sections 17.56.300 – Temporary Uses and Events

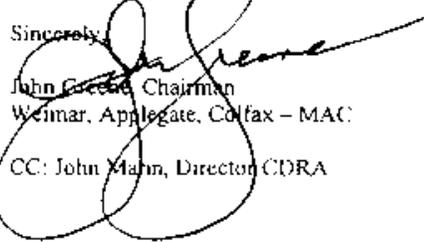
- This Temporary Events Amendment was admittedly developed from memory and derived from operating practice – *not developed from existing Zoning Text, (See Sections 5.1 – 5.106 for existing Text).*
- At the Planning Commission Meeting, Barn and Ag. Tours as well as Non-Profits were held up to benefit from this new Amendment. *Had Staff reviewed the 'missing' Sections, it would have been recognized that Section 5.110 provides exemption of Permit Application Fee for Non-Profits.*
- While keeping multi-Department Notifications/Sign-off and Public Safety Review provisions somewhat intact – the proposed Text *ignores* multiple references back to Ord.4639 and thereby guts its provisions, while also giving discretion to the Planning Director.
- *The Proposed Replacement Text.*
 - Unilaterally eliminates the Public Hearing process (whether in front of the Zoning Administrator or, as previously practiced, before the Board of Supervisors), wherein concerned Citizens have a mechanism to provide updated information or illustrate unknown circumstances of import.
 - Ignores the safety valve that an Indemnity Bonding mechanism provides, as currently exists.
 - Disregards the Non-Profit Exemption.

We are concerned for the erosion of good governance, the lack of transparency and the legal exposure that this proposed Zoning text represents to the County and for its Citizens.

In order to provide a constructive solution we recommend that the BOS send this Amendment back to the CDRA for revision – using Sections 5.1 – 5.106 to:

- *Develop an Application Form that would then be codified into the Zoning Ordinance – while reducing the 'page count' of these Sections by at least half.*
- *And leave both the remainder and the intent of the existing Text intact.*
- *Direct Staff to investigate and report to the BOS instances of overcharges and to see to the reimbursement of any improperly charged Permit Fees.*

This modification should satisfy the desired streamlining while keeping necessary protections in place, guarding the County and its Citizens from unnecessary exposure. Also, this approach will fulfill necessary standards to maintain transparency, accountability and valuable feedback mechanisms.

Sincerely,

John Goette, Chairman
Weimar, Applegate, Colfax – MAC

CC: John Mann, Director CDRA

*New paragraph meant to replace 5.1 - 5.106
5.1 - 5.106 Somehow disappeared from the ordinance.*

(11)

ARTICLE VI: TEMPORARY OUTDOOR EVENTS; REGULATING AND PERMITTING

SEC. 5.100 TEMPORARY OUTDOOR EVENT PERMITS DEFINED

For the purpose of this Article, temporary outdoor events shall mean and include any outdoor gathering of individuals--1) for the purpose of participation in concerts, dances or similar musical or theatrical type performances, 2) to attend arts and craft fairs, 3) to participate in carnivals, circuses, or similar outdoor recreation, 4) to participate or be a spectator at an outdoor sporting event to which the public is admitted with or without the payment of admission charges and which occurs at a location not specifically authorized by the County through the zoning and land use permit approval process authorized in Chapters 30, 40, 41 or 42 of the County Code. (ORD. 1776, 4214, 4639)

Temporary Outdoor Events, regulated by this section, may be permitted for not more than 3 consecutive days and not more than two (2) times in one location, in a given calendar year. Longer term events are regulated by Chapters 30, 40, 41, or 42 of the County Code.

SEC. 5.101 EXCLUSIONS

The following events shall not be considered temporary outdoor events as defined and regulated herein. Public school events taking place on school property; private non-commercial events/parties held at a private residence, events held on public land over which the County has no control and where the responsible agency e.g. (USFS, State) has granted permission for such events. Also excluded are outdoor music fairs or carnivals provided as an incidental activity to the primary permitted commercial use of a site, such as dinner music, music provided incidental to a wedding, and similar cases where the primary activity is serving food, holding a wedding, etc., not listening to the music or participating in the fair, carnival or other temporary outdoor event. (Ord. 4639)

SEC. 5.102 APPLICATION FOR PERMIT AND FEE

It shall be unlawful for any individual, partnership or corporation to operate, maintain, conduct, advertise, sell or furnish tickets or other types of written authority for admission to a temporary outdoor event in the unincorporated area of the County unless first obtaining a Permit from the County of Placer to operate or conduct such an event.

SEC. 5.102

Application for a Permit to conduct a single temporary outdoor event as defined herein shall be made in writing to the County Planning Department on an application form prescribed by them. Applications for other or more frequent events shall be subject to the permit requirements of the Placer County Zoning Ordinance.

Applications submitted to the Planning Department for a Permit under this section shall be accompanied by a non-refundable application fee of \$300.00, and shall contain the following information: (Ord. 4639)

- (a) The name, residence, mailing address and telephone number of the Applicant. If the application is made by a partnership, the names and address of all general partners shall be included. If the Applicant is a corporation, the application shall be signed by the President and attested to by the Secretary thereof and shall contain the names and addresses of all corporate officers, and a certified copy of the Articles of Incorporation shall be attached to the application. The address and telephone number of the principal place of business of the Applicant shall also be included in the application.
- (b) The location and assessors' parcel number(s) of the premises where the temporary outdoor event is proposed to be conducted, including all lands to be used for parking or other uses incidental to the outdoor activity. The applicant shall submit proof of ownership of said premises or written consent of all owners thereof for the proposed use.
- (c) The date and the hours during which the event is to be conducted. (Ord. 4639)
- (d) An estimate of the maximum number of spectators, participants and other persons expected to attend the temporary outdoor event for each day it is conducted.

- (e) A detailed explanation of the applicant's program and plans to provide security protection (including that necessary to prevent trespass), water supply, food supply, sanitation facilities, medical facilities and services, fire protection, vehicle parking space, vehicle access and on site traffic control; and if it is proposed or expected that spectators or participants will remain at night or overnight, the arrangements for illuminating the premises and for camping or similar facilities; applicant's plans to provide for numbers of spectators in excess of the estimate, and provisions for cleanup of the premises and removal of rubbish after the event has concluded. (Ord. 4639)
- (f) A detailed explanation of the applicant's plan for policing the activity with particular emphasis on the control and prevention of alcoholic and drug consumption.
- (g) Expected noise levels at the nearest residential and/or property lines. (Ord. 4639)

Such application shall be filed with the Planning Department at least sixty (60) days prior to the time indicated for the commencement of the planned activity and no Permit shall be issued until heard and approved by the Zoning Administrator. (Ord. 4639)

FIXING TIME FOR HEARING, INVESTIGATION AND REPORT

Upon receipt of a complete application, the Planning Department shall set a time and date for a public hearing; a public hearing shall take place not more than thirty (30) days thereafter, and the County shall give not less than ten (10) days' written notice thereof to the applicant. The Planning Department shall provide copies of the application to the Sheriff, the County Health Officer, the Director of Public Works, Planning Director, Chief Building Inspector, the Assistant Emergency Services Director, and appropriate state, federal and local fire jurisdictions. The Planning Department shall coordinate review of the application with the other named departments and agencies, and submit a report to the Zoning Administrator not later than the time set for the hearing, with appropriate recommendations concerning the activity. The Zoning Administrator shall render a decision at a hearing held within the time frames discussed above. (Ord. 4639)

CONDITIONS OF APPROVAL AND SECURITY BONDS

The Zoning Administrator shall consider the documentary and testimonial evidence of witnesses presented at said hearing, including all reports of investigation, and shall thereafter grant the Permit without conditions, or grant the Permit with conditions which must be met, including security required from the applicant as a guarantee that the conditions will be met, before a Permit is granted, or shall deny the application. (Ord. 4639)

If conditions are imposed by the Zoning Administrator, the applicant shall furnish or cause to be furnished, to the Planning Department, proof that all conditions have been met, and the required security has been given, before the Permit may be issued by the Planning Department. (Ord. 4639)

The Zoning Administrator may attach any reasonable conditions to the permit, including, but not limited to, those necessary to protect the health, safety, and welfare of participants, spectators, or the general public. Conditions may also be placed to protect property, resources, or to avoid adverse impacts which may result from such events. Conditions may, in the discretion of the Zoning Administrator, require payment of any or all costs incurred by the County as a result of the event, including but not limited to costs of County provided services.

Security required by the Zoning Administrator may include the posting of an Indemnity Bond and/or Performance Bond in favor of the County in connection with the operation of a temporary outdoor event as defined in this Ordinance. Such Bond or Bonds shall be prepared by a Corporate Bonding Company authorized to do business in the State of California by the Department of Insurance, in an amount determined by the Zoning Administrator of Placer County. Said Bond or Bonds shall indemnify the County of Placer, its agents, officers, employees and the Board of Supervisors of said County against any and all loss, injury and damage of any nature whatsoever arising out of, or in any way connected with, said outdoor festival and shall indemnify against loss, injury and damage to both person and property. (Ord. 4639)

SEC. 5.106

The Zoning Administrator may also require that the applicant provide a Corporation Surety Bond prepared by a Corporate Bonding Company authorized to do business in the State of California, indemnifying the County of Placer and the owners of property adjoining the temporary outdoor event site for all costs necessitated by such activity to clean up and/or remove debris, trash, garbage or other waste from, in and around the premises. Such Bond shall be in an amount determined by the Placer County Zoning Administrator to adequately provide for such indemnification.

SEC. 5.107 APPEALS

Decisions of the Zoning Administrator may be appealed as provided in Section 25.140 of Chapter 30 of the Placer County Code.

SEC. 5.108 ISSUANCE OF PERMIT

Upon determining that the Zoning Administrator has ordered the issuance of the Permit and that the Conditions, if any, imposed by said Zoning Administrator have been complied with by the applicant, the Planning Department shall issue a Permit to the applicant for the specific location authorized for the event and for the specific days for which the event is authorized. The permit shall state the maximum number of persons allowed to attend the event.

SEC. 5.110 NON PROFIT EXEMPTION

No permit application fee under this Chapter shall be required of any nonprofit institution, corporation, organization or association organized or conducted for nonprofit purposes only, when receipts derived are to be wholly for the benefit of such organization and not in whole or part for the private gain of any person. This exemption shall not apply to promoters employed by such nonprofit institutions, corporations or associations.

SEC. 5.112 REVOCAION OF PERMIT

The Zoning Administrator shall have the right to revoke any Permit issued pursuant to this article after a public hearing held, after oral or written notice is given to the Permittee at least twenty-four (24) hours prior to such hearing, for any of the following causes: