



PLACER COUNTY DEPARTMENT OF AGRICULTURE WEIGHTS AND MEASURES

11477 E Avenue, Auburn, CA 95603-2799 (530) 889-7372 FAX (530) 823-1698

CHRISTINE E. TURNER
Agricultural Commissioner/
Sealer of Weights and Measures

January 17, 2007

TO: Alex Fisch, Planning Department

FROM: Christine E. Turner, Agricultural Commissioner/Sealer of Weights and Measures

SUBJECT: **Pescatore Winery (PMPM T20060909), Initial Review**

I am writing in support of David Wegner's application to the Planning Department to amend his Minor Use Permit (MUP) for Pescatore Winery to allow public tasting of wine at the winery on a 'by appointment' basis. This is one way that wineries in the rural areas of the county can control traffic to the winery. Combined with restrictions on days and hours of operation, potential traffic impacts can be minimized. In addition, clearly identifying potential parking space and establishing a maximum number of visitor's vehicles allowed at any one time may also help resolve neighborhood traffic concerns.

Vineyards, and associated wineries, are often established in very beautiful areas and people enjoy a country drive to visit the winery. Visiting the winery also gives people an opportunity to personally talk with the winemaker about the wine. It is unrealistic to expect people to buy wine, especially in any quantity, before they have had a chance to taste it. Buying wine directly from the winery increases the profitability of the vineyard farming effort and helps ensure a niche within the Placer County agricultural economy.

In response to public interest, and good business practices, wineries have become public event destinations as well. One way to help minimize the impact of public events such as, but not limited to, wine tours is to limit the number of events on an annual basis. For growers to stay in the business of growing wine grapes there has to be wineries to process the fruit into wine. Supporting the efforts of small wineries to be more accessible to the public improves their bottom line and helps keep this segment of our economy in Placer County.

Julie Edzards

From: Evelyn Canis on behalf of Placer County Planning
Sent: Thursday, February 22, 2007 2:12 PM
To: Loren Clark; Julie Edzards
Subject: FW: Peskatori Winery permit

From: Wil King [mailto:wking65@pacbell.net]
Sent: Thursday, February 22, 2007 1:29 PM
To: Placer County Planning
Cc: Placer County Board of Supervisors
Subject: Peskatori Winery permit

Dear Zoning Administrator:

As cyclists, my wife Barbara and I, are not in favor of changing the permit to allow Peskatori Winery to have a wine tasting room, because this is a slippery slope. Other wineries in your area will then apply for the same use permit for their winery. We are not prudens in this regard as we enjoy being able to taste wine as much as anyone, however, with the narrow streets in the area it is asking for trouble, because in the event of a car/bike accident the biker is always the physical loser while the car driver is the psychological loser.

The alternative suggestions for the wineries in your area are to (1) consider a joint facility in Auburn or Newcastle that allow the tasting and purchasing wines of the region. These locations would have access to wider roads and hence less opportunity to take out a biker. (2) perhaps the permit could be modified to allow tasting at the wineries on the same days such as Friday and Saturdays only and notify bikers with well displayed street signs that this is county policy and to beware of riding on those days. However, consideration should be given to allow bikers one weekend day to use those roads without the challenge provided by open wine tasting rooms.

I thank you for this consideration.

Sincerely,

Wilford and Barbara King
5112 Mississippi Bar Dr.
Orangevale, CA 95662



COUNTY OF PLACER

FILED
FEB 24 2007

PLANNING DEPT.

NEWCASTLE/OPHIR MUNICIPAL ADVISORY COUNCIL

P.O. Box 1222, Newcastle, CA 95658

Placer County Zoning Administrator
3091 County Center Drive
Auburn, CA 95603

2/26/2007

Re :Pescatore Winery Use Permit
To be included in the March 1st public meeting.

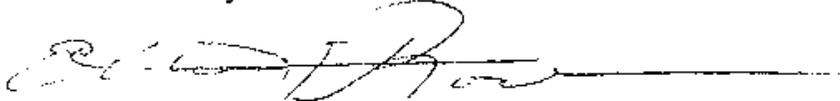
The Newcastle/Ophir MAC at the February 15th meeting heard comments from the Planning Department, the applicant, and members of the community concerning the Pescatore Winery's application for a use permit. After an hour of discussion the MAC decided not to make a recommendation to the Zoning Administrator because we did not have enough information concerning county guidelines pertaining to a commercial winery tasting facility serving alcohol and hosting public and private functions in a rural residential region. Everyone agreed that growing grapes in a rural residential agricultural area was an excellent use of land but the community was very concerned about the tasting facility. The MAC would ask the Zoning Administrator, and the Planning Department as a whole, to consider this summary of comments made during the February 15th meeting.

1. Growing grapes in a rural residential region is an excellent use of land.
2. Placer County has not established any guidelines regarding wine tasting facilities in rural residential regions.
3. Before use permits are issued for such facilities a set of guidelines should be established that address the following issues.
 - a. Traffic Issues on Private Roads. Many of the wineries are on private roads and will generate traffic problems for the other property owners.
 - b. Events. The guidelines should specify the number of and type of events held at wine tasting facilities.

- c. Consumption of Alcohol. What are the rules regarding alcohol consumption at commercial enterprises in rural residential regions such as winery tasting facilities? Perhaps the guidelines should place limits on the amount and type of alcohol consumed. This is of particular concern since many children live on adjacent properties and county roads such as Ridge Road is hazardous to drive under the best of conditions.
 - d. Hours of Operation. The guidelines should specify the hours of operation.
 - e. Noise. The occurrence of public and private events at such commercial wine tasting facilities have generated excess noise. What noise level will be allowed? Should the county consider an amendment to the county noise ordinance that would restrict noise emanating from commercial wine tasting facilities in residential regions to decibel levels lower than the current standard?
 - f. Violations. What will the penalties be for violation of the use permit? The guidelines should specify these.
 - g. Periodic Review. Should the county consider specifying guidelines that use permits for commercial winery tasting facilities in rural residential regions be reviewed on a regular basis, perhaps yearly?
4. To approve the Pescatore Winery's application for this use permit without basing that approval on a set of guidelines, would set a precedent making the adoption of a set of guidelines much more difficult after the fact.
 5. The Zoning Administrator should carefully consider the Pescatore Winery's track record in complying with it's existing use permit and ABC license as they decide whether or not to approve or deny the application.

The Newcastle/Ophir MAC would like to have the county set some type of uniform standard for winery tasting rooms in rural residential regions before we can make an informed recommendation to the county concerning the amendment to the Pescatore Winery use permit.

Thank You for your consideration in this matter.



Elliot Rose
Vice Chairman Newcastle/Ophir Municipal Advisory Council

Alexander Fisch

From: Arry Murphey-Frank [arrydesign@sbcglobal.net]
Sent: Thursday, March 01, 2007 12:33 PM
To: Alexander Fisch
Cc: dmackenroth@lawml.com
Subject: Pescatore Winery PMPMT20060909

March 1, 2007

Alex Fisch
County of Placer-Planning Department
3091 County Center Drive, Suite #140
Auburn, CA. 95603

Dear Mr. Fisch,

I am writing to you to express the concerns of many of the residents of Chaparral Lane. Chaparral Lane is a privately maintained road that runs parallel to the Auburn Ravine off Gold Hill Road. Pescatore Winery backs up to Chaparral Lane. David Wegner, the owner of Pescatore Winery has shown a blatant disregard for many of his neighbor's wishes over the years. Several years ago, Mr. Wegner replaced an old farm gate with a fancy iron gate and started utilizing Chaparral Lane. The neighbors put together a petition against the use of Chaparral Lane by Mr. Wegner because he does not have an easement on to Chaparral from his property and it is a privately maintained road. The neighbors were and still are concerned that he will use it for access to wine events and in fact at a few events we have seen the gate open (presumably because he has a dead-end driveway and it is a different way to leave) and that there will be traffic on our single lane, privately maintained road. In spite of the fact that he has received numerous letters and verbal requests from neighbors and a petition to cease using the road, we often see the gate open and mud tracks coming from his property on to the pavement. We are concerned about his use of Chaparral Lane for farm equipment and for allowing patrons of Pescatore Winery the use of Chaparral Lane for access to the winery.

We have also had other types of incidents with Mr. Wegner. Mr. Wegner allows his friends to hunt for turkeys on his property. It would be one thing if he were living on 150 acres instead of 15, but it is all together another when his friends are hunting within 10 feet of a private road with cars driving by. I drove by one day with my child in the car and a hunter from his property was actually walking down the private road with guns and full camouflage. The turkeys belong to the entire neighborhood and it is horrible to explain to a child why that man is walking down our road with a gun. I stopped and asked this person why they were there and he said that Dave Wegner gave him permission to hunt on his property.

We realize that these incidents do not have a direct bearing on his request to modify his use permit but we feel that he has set a precedent for his behavior as a neighbor. We were not notified of his intent to modify his use permit until the evening of February 28, 2007 when he put a sign on a post AFTER

3/1/2007

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dark for a hearing the next day. This indicates to us that he did not want to allow time for any of the neighbors to find out or attend the hearing. The county should take into consideration Mr. Wegner's pattern of slight of hand behavior and his disregard for his neighbor's wishes and safety.

It is our understanding that Pescatore Winery is already operating under false pretenses and that they are already having tastings. We know, for a fact that they have been a part of the Placer Wine Tour for at least two consecutive years, which is a public event. They clearly show on their website that they have already been conducting tastings, weddings and other parties, all without the proper zoning for these activities. We wish to ask the county not to grant the change in zoning because it will cause noise and crowding in our rural residential neighborhood and because Mr. Wegner does not respect the neighborhood.

Thank you for your time and consideration in this matter.

Sincerely,

Peter and Arny Frank
7333 Chaparral Lane
Newcastle, CA. 95658
(916) 663-3355

**Executive Summary of a 25 page doc with exhibits filed - PMPMT2006O909,
PESCATORE WINERY/DAVE WEGNER - MINOR USE PERMIT MODIFICATION -**

The Neighborhood Rescue Group Association is a coalition of home owners in the area that have a vested interest in this application because the granting of this permit will have a deleterious impact on our quality of life. This proposed use will deny us our individual rights.

This project will increase, noise, traffic and dust in this quiet neighborhood. The increased traffic from this project poses a threat to both local residents and the public.

Applicant wants to sell 40 cases/480 bottles of wine per month year round. This represents a very large increase in traffic and a correspondingly large negative impact on this neighborhood. The number of bottles of wine sold could be much greater and so can the impact on our neighborhood.

Only a portion of the County Staff report for this meeting was available just two days (2-27-07) before the hearing. The all important engineering & environmental staff reports were not ready.

This is a violation of **Bagley-Keen Act (§ 11125(b).)** “. . . *at least ten days prior to the meeting, bodies must prepare an agenda of all items to be discussed or acted upon at the meeting.*” NRG specifically reserves the right to make comments on this Staff Report on a continuing basis and file them in a timely manner.

From: Alexander Fisch Sent: Wednesday, February 07, 2007 - (1) - After a very muddy and confusing review process, Sharon and I have determined that Dave's request to have wine tour and other open house events cannot be supported with this application.

If the associate planner who works many hours a week finds this a “muddy and confusing review process” how is the general public going to understand this process, especially when they have been cut out of much of the process?

Further complicating the issue, the proposed overflow parking area would need to be encumbered by a parking easement. **We never found out how this was to be solved.**

Long after this process was started the County required the completion of an Environmental Questionnaire by the proponent. The questionnaire was circulated in mid January. Please explain to the Public why this questionnaire was not required months before this?

Thu. 1 Feb 2007 17:05: “The County has now determined that the environmental review is not necessary due to the limited scope of the use permit proposal and the fact that the facilities are existing. These words and many others cited by Mr. Fisch clearly show that these problems are so severe that they were “. . . a very muddy and confusing review process.”

So, is this the simple way out for the County -- to declare this a Categorical Exemption?

Bagley-Keen #-54959 says: Each member of a legislative body who attends a meeting of that legislative body where action is taken in violation of any provision of this chapter, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this chapter, is guilty of a misdemeanor.

Executive Summary of a 25 page doc – 2

There are tracks all through the County documentation that show, not only that meetings were held exclusively with wineries and preferential treatment given to Mr. Wegner and the other wineries at the expense of the neighbors to Pescatore Winery. Mr Fisch wrote to Wegner:

The County is absolutely interested in seeing you and other wineries succeed, and I am committed to helping you get through our regulatory process... that is my job.

So how was this carried out? Our pages 11 to 15 gives a clear record. For instance: 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. – Tom Miller e-mail to Bill Schulze – 3-22-06

Is the Zoning Administrator prepared to tell us who was involved in reaching this **“general agreement”** and upon what authority did they have the right to **“... hold in abeyance any CE actions?”** How would you answer the following written statement by David Wegner?

Late last year one of the wineries was told they could not have a open house wine tour since they had “no public tasting” on their use permit. All nine wineries met with Tom Miller, head of Placer County on three occasions and he directed the Planning Dept. to allow these wine tour events quarterly, plus the Farm and Barn Tour.

Since when is it possible for any government entity to suspend the enforcement of the laws on the books at any given time? Please read carefully our full discovery detail on how the ABC views the status of the Pescatore winery. In one sentence:

What would constitute a violation of their ABC license; would be if the location is still incorporating a wine tasting upon the premises. Paul A. Fuentes Supervising Investigator ABC Sacramento District Office - January 22, 2007. Mr. Wegner has never had and still does not have an ABC License to have **“... wine tasting on the premises.”**

CEQA requires an agency to determine that a project may have a significant effect on the environment if it will cause substantial adverse effects on human beings, either directly or indirectly.

Mr. Fisch’s words: It is neither appropriate nor the function of staff to make a judgment as to whose version of past events is most accurate when providing the Zoning Administrator with a written analysis and recommendation on the requested modifications to this Minor Use Permit.

That is totally wrong according to Guidelines 15131. His Staff Report does not deal with the materials sent to him by the NRG and other landowners in that area. This is still another reason to send this project back to Planning.

The intersection of Welcome Road and Ridge Road is a bus stop for the bus that transports children from the area, and we do not believe that this is either a healthy or morally right thing to have a wine tasting facility at that location.

We ask that the Placer County Zoning Administrator deny the approval of PMPMT20060909 and send this back to the Planning Department for proper processing. Furthermore, we demand immediate enforcement of the Placer County codes pertaining to this project as the codes apply now instead of waiting for potential Zoning Text Amendments changes that may never come.

LAURENCE A. GRAVES

6995 Ridge Road
Newcastle, CA 95658
Home phone: (916) 663-3731
Office phone: (530) 885-9346
Fax: (530) 885-6873

February 12, 2007

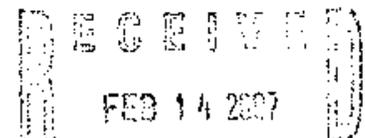
Alex Fisch – Staff Planning
Placer County Planning Department
3091 County Center Drive, Suite 140
Auburn, CA 95603

Re: Application for Modification of Minor Use Permit of Pescatore Vineyard and Winery
Owners: David and Patricia Wegner
Location: 7055 Ridge Road, Newcastle, CA 95658

Dear Mr. Fisch:

This letter is simply to acknowledge our telephone conversation of February 5, 2007, and to thank you for taking the time to discuss the above application.

It is my understanding from our telephone conversation that there is a projected hearing date on March 1, 2007, time unknown to me, for modification of the original minor use permit issued to the Wegner's regarding their winery in, I believe, 2001. With respect to my telephone call, I was looking to get copies of any application in this matter, any other documentation submitted by the applicant in support of the modification, and any possible copies of information from Placer County Department Staff Reviews. I would still like to obtain a copy of that information as soon as possible, and if you would simply give me a call at my office number of 530-885-9346, I would be happy to come and pick up the copies and pay for any charges at that time. The reason for requesting this information is that it was my further understanding that notifications would be sent to adjacent property owners approximately one week prior to the hearing and, for me, it is simply too little time to gather any possible objections to the application without any knowledge of what the applications and supporting documentation would provide.



PLANNING DEPT.

Please consider this letter as a total objection to what I understand is a request to modify the previous winery only application and to now allow commercial public and "private" wine tastings and any associated activities.

HISTORICAL BACKGROUND

Although it may or may not be relevant to the present application, I am going to give you a little historical background leading up to the present application by Mr. Wegner. My name is Lawrence Graves and my wife Dorothy and I live at 6995 Ridge Road, Newcastle, California 95658, and we purchased our 17.4 acres in 1970 and built our home at that time. Along with our property, we were given the easement for what is now the Wegner property and the Williams property a 50 foot easement which is non-exclusive for private road and utilities. At the time we purchased our property, there were no fences on any of the adjoining properties and the only agriculture in existence at that time was what was called the Huetis turkey farm, and that was located above the existing Welcome Road area.

Over the years, the 20 acres to the west of us has been subdivided and there are now three homes and all of our neighbors have fenced their properties. The only two homes in existence besides ours originally were the present Williams home on the property which is directly to the south of the Wegner property and the two homes on the Jordan property which is to the south and directly below our home. In the ensuing years, when the Wegner's bought their property, they have now subsequently put two homes on one parcel of property and I assume their winery is on the second parcel. When their 2006 subdivision put the property into three parcels, Mr. Wegner has advised me that they will be building another home on one of the parcels for his son, and I assume that leaves the third parcel for another home. Then over the years, there have been approximately at least 10 homes on the parcels along Welcome Road and thus we have approximately 16 or 17 homes within the present area of which all the parties use the direct entrance to Ridge Road from their respective properties.

At the time the Wegners purchased their 15 acres, I met Mr. Wegner and he advised me that his intention was to plant a vineyard and ultimately to have a small winery to be able to bottle grapes from his vineyard and sell the product to retail and wholesale liquor establishments. This idea was rather entrancing since for all the time I have lived on Ridge Road, it appeared to be all primarily residences with only some cattle and some horse owners and possibly three mandarin orange orchards for agricultural endeavors. The vineyard was planted and the Wegner's should be commended for the beauty of their vineyard, their subsequent two homes and winery, as they are all aesthetically pleasing to view. However, in 2000 when the Wegner's applied for their minor use permit for the winery I attended that meeting and there were no objections since the entire concentration and the grant of the permit along with the conditions attached to the permit were only for a winery.

In 2001 I saw an Alcoholic Beverage Control sign on the fencing along the Wegner and my joint private road easement which appeared to be a request for a permit for on-sale licensing to sell at retail on the premises of the Wegner property. I immediately, since I had no notice or advice on

this from Mr. Wegner, filed a complaint form with the Alcoholic Beverage Control and with the Placer County Planning Department, Code Enforcement Division. Shortly thereafter, I was contacted by Mr. Wegner and assured that this application was only for the ABC license to sell bottled wines directly from his winery to retail and wholesale liquor establishments and there would be no type of sales on the vineyard property itself. With that information from Mr. Wegner and with contacts with the Alcoholic Beverage Control office and the assurance by the ABC that there would be no on-site wine tasting, I withdrew my protest.

However, approximately three years ago, we were invited by the Wegners to their winery for a wine tasting. There were a number of their friends and acquaintances at the tasting and I was somewhat surprised since this was my first visit to their winery that the entire upper level of the winery, instead of being a storage area for wine, was a very tasteful and beautiful activities room in which we sampled wines. Also, I was offered for sale two bottles of wine at \$10 each, which I accepted and I must say the Wegner wines appears to be exceptional. I had a slight concern but didn't think too much of the sale except that from that apparent date over the next two and one-half years to date, we have experienced the progression of what appears to be weekend public wine tasting and sales, weddings, and other events which appear to me to be in total violation of the Placer County Minor Use Permit and the Alcoholic Beverage Control license conditions. About a year and one-half ago I sent a copy of the Placer County conditions to Mr. Wegner without response and approximately two years ago sent to him a handwritten request that we should reset the 50-foot easement fence lines and re-do the private roadway as there were times when there appeared to be an open house wine tasting events, that people were parking on the road and it was difficult to get passage and people were beginning to pass the winery entrance and the entrances to the Wegner's homes and would circle up the driveway to my home to inquire as to whether the winery was open or where the entrance was. I requested of Mr. Wegner that he put up signs to indicate the winery entrance and he obliged me, but I have found that wine tasters seem to disregard any type of sign that is put up and they continue to simply drive up to my home for either a turn-around or to make inquiries as to the winery. On same days when they have had an extreme amount of vehicles for wine tours, tastings or events, I don't know exactly how many cars were at the winery location, but I have had as many as ten cars a day from morning to up to 9:00 p.m. come up to my home and make inquiries as to the winery and, although this is not earth-shattering, it certainly is a nuisance. It became apparent that our many years decomposed granite private road needed asphalt paving for this additional traffic and the Wegners and I agreed to the asphalt paving with each of us paying our proportionate share. I was requesting an extension of the roadway area at the blind curve on the roadway, but Mr. Wegner made the direct contacts with the paving contractor and handled the widening of the road, but nothing was done about the blind curve.

It is my understanding that other residential neighbors' complaints have led to Mr. Wegner now seeking the change of conditions for his Minor Use Permit to allow full "public" – "private" appointment wine tasting and sale and other associated activities at this present location. It is my understanding that Mr. Wegner and other winery owners have obtained written changes to the Placer County Codes in agricultural-residential areas for wineries and wine tasting, by definition, but that wine tasting and retail sales is still subject to the minor use permit process.

Due to such heavy vehicular traffic over the private easement road with respect to the winery activities, I went online and discovered many flyers by the Pescatore Winery advertising “wine sampling, weddings, small group tours or other special occasions, lively programs for our guests to enjoy, including tasty treats, art displays and live music, hands-on vineyard and winery demonstrations and various banquets.” All of these items appear to be complete black and white violations of the Alcoholic Beverage Control regulations and the Placer County Minor Use Permit.

As a final historical item, I have a letter dated October 26, 2006, from Mr. Wegner, addressed to “Dear Neighbor” in which he advises that he is going to redo his California ABC license and Placer County Minor Use Permit and states specifically “I am not trying to change anything we have been doing over the last five years.” He further states “I was told by the County that I could do tastings by appointment, although “my use permit states “no public tastings.” He further states that “all nine wineries have met with Tom Miller, head of Placer County on three occasions, and he, Mr. Miller, directed the Planning Department to allow tour events, plus farm and barn tours.” He also states that if we have questions, we can call “Assistant Planning Director Melanie Heckel and that she can attest to my intent and that the County has allowed what I am doing to date.” If Mr. Wegner is correct in his statements as to Placer County Officials allowing the wine tastings, sales of wine for retail at wineries, wedding and banquet events, and “private appointment tastings” then I am amazed that such County Officials cannot read in black and white the conditions their own County Planning Department’s Minor Use Permit stated in respect to this winery and also the Alcoholic Beverage Control conditions. If Mr. Wegner’s statements as to the permissions granted by Placer County staff representatives is correct, it appears that some superior of those parties needs to take them aside to advise them what plain black and white language of conditions with respect to minor use permits and alcoholic beverage control conditions of licensing mean.

POSSIBLE LEGAL QUESTIONS

Along with this protest, I would like to suggest an inquiry as to possible legal questions which come up with respect to the agricultural-residential zoning which involved private road easements, although some of these questions may already have been addressed by Placer County Staff as to this application for changes in Mr. Wegner’s minor use permit.

1. The original grant of a 50 foot road and utility easement granted to my property and I assume also to the Wegner property by the original owners of this entire area, and their successors, it seemed to open up the question that in an agricultural-residential zoned area, whether commercial operations leading to very heavy traffic to a private road would be considered as overburdening of the easement and be subject to possible court action if the County would allow such heavy traffic to proceed on a commercial basis. I would hope that the County has placed this question before their legal counsel for an opinion in this connection leading up to this hearing so that we can have the benefit of that opinion.

2. Under Chapter 17 of the Planning and Zoning Regulations, Section 17.44.010 on residential-agricultural districts, subsection (a) states: "Purpose and Intent. The purpose of the residential-agricultural zoned district is to stabilize and protect the rural residential characteristics of the area to which it is applied and to promote and encourage a suitable environment for family life, including agricultural uses. Now, let's discuss the import of that purpose and intent versus the desire to promote wineries, wine tasting and tourism in Placer County. I believe we all would be enhanced in Placer County by the proper business ventures of wineries, wine tastings, and retail sales of wine at those wineries if they are placed in the proper setting and due consideration is given to promotion of those businesses but not as to areas that have been fully developed over the years as almost full residential areas. Placer County officials need to recognize that there is really no distinction between commercial "wine tasting" and a regular "bar." I believe that any Planning Commission member or County staff member would be extremely upset if they were suddenly notified that a "bar" was suddenly going to be placed into their residential areas. Incidentally, I believe that the alcoholic content by volume of wine is even much higher than that of beer. The dangers of commercial wine fasting and sales or tastings by appointment can lead to serious drinking and driving problems in country rural residential areas where we have narrow roads which are completely twisting, bus stops for children, children and dogs playing on our private roadways, heavy Ridge Road bicyclist activities, primarily on the weekend but also during the week, and even the threat of careless cigarette smokers in rural areas starting fires. It should be noted that in the Placer County's Winery Tours brochures, they state as follows: "Of course, visitors must be 21 years of age or older to taste the wines. IDs will be checked so please have them with you. Designated drivers are encouraged – there will be water and soft drinks available for the designated drivers at the various stops." I believe this quote is self-explanatory and recognizes the dangers of wine tasting and the extremes some wine tasters will go to and then get in their car and drive.

3. In the original granted Minor Use Permit, Condition 13 of the Placer County Conditions for the building of the Wegner winery stated: "Construct an appropriate roadway encroachment from the entrance driveway onto Ridge Road pursuant to an approval from the DPW. The intent of this condition is to correct any existing design, drainage and safety deficiency. The full commercial standard driveway is not contemplated, and engineered improvement plans may not be necessary to accomplish the intent of this condition." It would appear the County recognized that there was not going to be any real heavy vehicular traffic when this permit was issued in March of 2000. What Mr. Wegner has been doing for the past few years and what he is now seeking written approval for is to totally increase the vehicular traffic on this private road, which was originally set simply for residential and agricultural purposes. This increased traffic is hoped that, as to this hearing, the County will conduct appropriate review for the traffic that has been going in the past two to three years, and if this should be approved, would be there in the future.

4. License Limitations by the Alcoholic Beverage Control.

It would be appreciated if the County or its legal counsel would review for this hearing the ABC licensing limitations in counties. I am uncertain of the regulations, but it is my belief that at

present, the ratio is one on-sale liquor for each 2,000 persons in the county in which the premises are situated, and I would appreciate the county's review with respect to whether this provision of the ABC regulations has been duly considered by the county in their rush to promote Placer County wineries and on-site wine tastings.

5. Equitable Consideration.

I believe under the law that one who comes to court seeking certain rights or privileges must have "clean hands" in order to prevail. It would appear from the past activities of the Pescatore Winery and/or Mr. Wegner, that he has violated the provisions of the Placer County Use Permit and the Alcohol and Beverage Control explicit conditions with respect to the establishment of his winery. To reward this prior conduct with a change to approve on-site wine tasting and retail wine sales and the obvious excessive road traffic over this private road would lead to the conclusion that the Planning Commission and our county staff members have obviated the necessary "clean hands" court doctrines.

POSSIBLE ALTERNATIVES

1. I would like to suggest that Placer County and its staff review the promotions for wineries and wine tasting and commercial retail sales of wine in wineries in rural agricultural-residential zones where there is especially a heavy emphasis which has occurred over the years of being primarily residences, that the Placer County Wine Growers and government officials look at the prospects of establishing tasting rooms in communities as, in this case for Pescatore Winery, in the town of Newcastle. This is an enduring little town and it seems that wineries would get together where there is already established commercial development, and actually in Newcastle, you already have Constable Jacks bar, that it would more nearly promote the tourism and drinking aspects to more commercial type areas rather than out in heavy country residential areas. I believe this would be good for the tourism and commercial establishments in towns like Newcastle as well as helping to promote the residential lifestyles which have become established in rural Placer County.

2. There is a possible option for the Pescatore Winery which has recently come up. I believe the Williams property which is immediately adjacent and south of the Wegner properties is now up for sale. A possible purchase of that property by the Wegners would allow them to put a single totally owned commercially established and surveyed roadway directly from Ridge Road to their winery and would bypass the entranceway onto Ridge Road which is now used by approximately 15-17 other residences. This possible proposals certainly does not obviate all of the other hazardous conditions that I see are involved in this rural environment, but it is merely an alternative possibility for suggestion.

EXHIBITS

I wish to submit the following exhibits with this very extended petition in protest as follows:

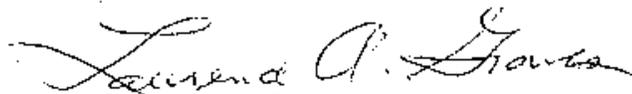
Exhibit A – Original Placer County Zoning approval of March 28, 2000, for Wegner construction and operation of the winery and conditions attached thereto;

Exhibit B – Various complaints and removal of complaints or protests to Alcoholic Beverage Control and Placer County from 2001 to 2006;

Exhibit C – Various Pescatore Vineyard and Winery online advertisements. [Please note red circled items.]

Exhibit D – Various photographs of Ridge road entrance and private road to winery and properties. [Please note that the photos showing the private road as unpaved is now a fully asphalt-paved road.]

Respectfully submitted,


Laurence A. Graves



PLACER COUNTY ZONING ADMINISTRATOR

11414 B Avenue/Auburn, California 95603 Telephone (530) 889-7470/FAX (530) 889-7499

Web page: <http://placer.ca.gov/planning> E-mail: planning@placer.ca.gov

March 28, 2000

David C. Wegner
DAVE'S WINERY
240 Canyon Highland
Oroville, CA 95966

SUBJECT:

DAVE'S WINERY (DAVID WEGNER)
7055 RIDGE ROAD, NEWCASTLE
APN 031-161-028 (MUP-2511)

Dear Mr. Wegner:

On Thursday, March 2, 2000, I conducted a public hearing to consider a request for a minor use permit for a winery on the subject property. Following the Development Review Committee's (DRC) report, your testimony and the testimony of others at the hearing, I took the matter under advisement for a period not to exceed 30 days with the intention of reviewing additional information about the operation of wineries, conducting a second field review of the proposal and issuing a written decision. On March 13th, I visited the site, and I have since spoken to the Placer County Agricultural Commissioner, Christine Turner, regarding small wineries. I have also spoken with planners in both El Dorado and Amador counties regarding their winery regulations.

BACKGROUND:

The subject parcel is 15.5 acres in area and is located approximately 300 feet north of Ridge Road and approximately 1/2 mile east of the Ridge Road/Gold Hill Road intersection in the Newcastle area. The property is zoned Farm, Combining a Minimum Building Site Size of 4.6 acres (F-B-X, 4.6 ac. min.). There is no residence located on the property; however, a 4±-acre vineyard has been planted on the westerly portion of the parcel. The applicant's request is to construct a 32' X 45' building with two floor levels (a total of 2,880 sq. ft. of floor area). The basement would house the wine-making operations; the second floor would be used for wine storage. The topography at the building site is sloped sufficiently that the building will appear to be a single-story structure from the entrance road on the west side of the parcel. The applicant has stated that he intends to produce no more than 1,000 cases of wine per year, primarily from the grapes grown on the property. More grapes will be planted on suitable portions of the property in the future. **[NOTE: the operation of the vineyard is an agricultural endeavor that is not subject to discretionary review by the Zoning Administrator. The use of pesticides, herbicides, fertilizers and other agricultural chemicals is regulated by the Placer County Agricultural Commissioner.]** The applicant has stated that the wine will be made by members of his family during a two-week period each year. The wine-making operation will take place mostly during daylight hours, according to the applicant. Since most of the wine-making process takes place inside the building, noise associated with the operation of the winery will be very limited.

DISCUSSION:

The Zoning Ordinance permits wineries (agricultural processing) in the Farm zone district, subject to the approval of a Minor Use Permit. The purpose of this discretionary review on the part of the County is to determine whether the proposed use could adversely affect surrounding properties. If the potential for adverse effects exists, the use permit approval process is geared to mitigate and/or minimize such effects upon neighboring property owners and residents. The limited size and scale of the proposed wine-making operation should produce few, if any, adverse effects upon neighboring properties if conducted according to the Minor Use Permit (MUP-2511) Conditions of Approval.

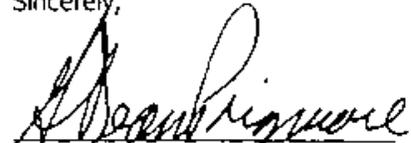
DECISION:

Based upon the discussion above and my physical review of the property, it is my decision to **APPROVE** this Minor Use Permit application (MUP-2511), subject to the attached findings and conditions.

The applicant and/or any person who provided written testimony or who gave oral testimony at any public hearing has the right to appeal this decision or any part of it. An appeal may be initiated by filing a written Notice of Appeal form (available at the Planning Department), together with a non-refundable filing fee of \$380.00, within ten (10) days of the date of mailing noted below. If an appeal is filed, the decision of the Zoning Administrator is set aside until the Planning Commission can schedule a public hearing and render a decision. Decisions of the Planning Commission may be appealed to the Board of Supervisors. The decision of the Board of Supervisors is final.

DATE OF MAILING: 3-30-00

Sincerely,



G. Dean Prigmore, ACP
Zoning Administrator

GDP:dp

ref: t:\cmd\cmdpl\za\mup2511d.doc

Attachments:

- Findings
- Conditions of Approval

Cf:

- MUP-2511 file
- George Rosasco, Planning Department
- Phil Franz, DPW
- Vicki Ramsey, EMS

FINDINGS AND CONDITIONS OF APPROVAL
FOR
MINOR USE PERMIT
Dave's Winery (Dave Wegner)
(MUP-2511)

FINDINGS:

1. The proposed use is consistent with all applicable provisions of the Zoning Ordinance (Chapter 30, Placer County Code) and any applicable provisions of other chapters of the County Code.
2. The proposed use is consistent with applicable policies and requirements of the Placer County General Plan.
3. The establishment, maintenance or operation of the proposed use will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, comfort and general welfare of people residing or working in the neighborhood of the proposed use, or be detrimental or injurious to property or improvements in the neighborhood or to the general welfare of the County.
4. The proposed project with approved conditions will be consistent with the character of the immediate neighborhood and will not be contrary to its orderly development.
5. The proposed project will not generate a volume of traffic beyond the design capacity of all roads providing access to the project.
6. The permit does not authorize a use that is not otherwise allowed in this zoning district.
7. This project is Categorically Exempt (Class 3 Section 31.933) from the provisions of CEQA.

CONDITIONS:

This Minor Use Permit (MUP-2511) authorizes the construction of a 32' X 45', two-story structure (2880 sq. ft. floor area) and operation of a winery within that structure at 7055 Ridge Road in the Newcastle area (APN 031-161-028). No public wine tasting is authorized by this permit.

2. The applicant shall obtain a building permit from the Placer County Building Department for construction of the proposed winery building and any other structure proposed for construction in the future.
3. The Development Review Committee shall review and approve the building plans for the winery prior to the issuance of a grading plan or a building permit, which ever is to be issued first. Such review may include, but not be limited to: Architectural colors, materials, and textures of the proposed structure; landscaping; irrigation; signs; exterior lighting; pedestrian and vehicular circulation; the design of parking area(s); fences and walls.
4. Winemaking operations shall be conducted entirely within the winery building except for the crushing process (including the separation of seeds, stems, foliage, etc.). Winemaking operations shall be confined to the lower floor of the structure; the upper floor shall be limited to the storage of wine and/or agricultural implements associated with the winery.
5. Wine production is limited to no more than 1,000 cases of wine within any twelve-month period. Grapes may be imported from off-site to be processed into wine; however, the total production limit for the winery approved by this use permit is 1,000 cases within any twelve-month period.
6. Deliveries of wine from the winery to any off-site location shall be accomplished by single-axle vehicles only (i.e. no tractor/trailer rigs or dual axle trucks are allowed; pickup trucks, local delivery vans and medium-duty trucks with a single rear axle are allowed). Grapes being brought to the site for processing into wine may only be delivered by single-axle vehicles as noted above.
7. Activities associated exclusively with the winemaking operation shall be limited to daylight hours (or 7:00 a.m. to 9:00 p.m., whichever is more restrictive) on weekdays and 8:00 a.m. to 8:00 p.m. on Saturdays, Sundays and Federal holidays.
8. Parking for all seasonal employees shall be provided on-site, as approved by the DRC.
9. Domestic drinking water and on-site sewage disposal facilities shall be provided for all employees within the winery building, as approved by Placer County Environmental Health Services (EHS).

10.

The applicant shall contribute a fair share portion (i.e. the equivalent of one single-family dwelling) towards any legally required road maintenance assessment on an annual basis.

11. Prior to the issuance of a building permit for the winery structure, the applicant shall provide to the Department of Public Works (DPW) a letter from the appropriate fire protection district and the California Department of Forestry and Fire Protection (CDF) describing conditions under which service will be provided to this project.
12. Any liquid wastes generated as a consequence of the winemaking process shall be disposed of on-site pursuant to a plan approved by EHS.
13. Construct an appropriate roadway encroachment from the entrance driveway on to Ridge Road pursuant to an approval from the DPW. The intent of this condition is to correct any existing design, drainage and safety deficiencies. A full commercial standard driveway is not contemplated, and engineered improvement plans may not be necessary to accomplish the intent of this condition.

14. Contact Environmental Health Services, pay required fees, and obtain an approved Site Evaluation Report and Construction Permit, and as approved, install on-site sewage disposal system for the winery project. Connect the winery project to the new system.
15. ADVISORY COMMENT: Road cuts, grading, or new structure construction must not conflict with the approved sewage disposal area and replacement area and maintain required setback distances specified in Placer Code, Section 4.45 (Table 1).
16. ADVISORY COMMENT: The approved on-site sewage disposal system area and the 100% replacement area must remain unaltered and available, free of vehicular traffic, parking, structures of any type, or soil modification.
17. Submit to Environmental Health Services a usage statement detailing the number of employees, vehicles, the extent of public use, days and hours of operation, quantity and quality of wastewater generated, and any other information relating to wastewater flow or domestic water demands. The project shall be limited to project description outlined in the usage statement as approved by Environmental Health Services.
18. Submit to Environmental Health Services a usage statement detailing the number of employees, vehicles, the extent of public use, days and hours of operation, quantity and quality of wastewater generated, and any other information relating to wastewater flow or domestic water demands. The project shall be limited to project description outlined in the usage statement as approved by Environmental Health Services.
19. The project shall be limited by the sewage disposal capacity of the septic system serving the project as determined by Environmental Health Services.
20. Public wine tasting on the subject property is prohibited without additional review and approval of Environmental Health Services.
21. Management of solids (seeds, stems and skins, etc.) left after crushing shall be done in such a manner to provide adequate vector control and to prohibit significant malodors generated by the project beyond the property lines of the project.

To this end, upon generation, these solids must be stored in rodent and fly proof container(s) and be thinly spread and immediately incorporated into the existing vineyard within 48 hours of generation or sooner if necessary.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL



San Francisco District Office
1000 Market St. Ste. 230
San Francisco, CA 94102
415-774-2002

March 2, 2001

Lawrence Graves
6995 Ridge Rd.
Newcastle, CA 95658

Re: Wegner; "02"
Winegrower's license
7055 Ridge Rd., Newcastle

Dear Protestant:

I am the Investigator assigned to the above mentioned application and contacting you concerning the protest you filed against the license. The Wegner's have applied to this Department for a type "02" - Winegrower License to operate a winery.

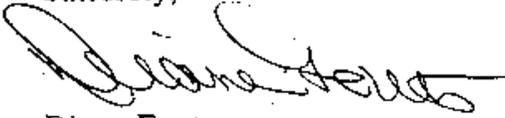
In order for the County to approve the Wegner's project, they had to meet or agree to specific requirements, which are indicating in their Use Permit. The Wegner's have also been informed about conditions on the alcoholic beverage license to coincide with their Use Permit. Specifically:

1. There shall be no on-site wine tasting.
2. The wine making operation shall be confined to the lower floor of the structure; the upper floor shall be limited to the storage of wine and/or agricultural implements associated with the winery.
3. Wine making operations shall be conducted entirely within the winery building except for crushing process (including the separation of seeds, stems, foliage, etc.).
4. Wine production is limited to no more than 1,000 cases of wine within any twelve-month period.
5. Activities associated exclusively with the wine making operation shall be limited to daylight hours (or 7:00 a.m. to 9:00 p.m., whichever is more restrictive) on weekdays and 8:00 a.m. to 8:00 p.m. on Saturdays, Sundays and Federal Holidays.

If the above conditions address your concerns, please sign and return the enclosed letter back to this Department. Violations of conditions are grounds for the Department to take disciplinary action.

If you have any questions, please feel free to call me at (916)227-2154.

Sincerely,

A handwritten signature in cursive script, appearing to read "Diana Fouts".

Diana Fouts
Investigator

Enc.

BEFORE THE
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
OF THE STATE OF CALIFORNIA

IN THE MATTER OF THE APPLICATION OF

WEGNER, David Clarence
WEGNER, Patricia Mary
7055 Ridge Rd.
Newcastle, CA 95658

} FILE 02-373346
}
} REG.
}

PETITION FOR CONDITIONAL
LICENSE

For Issuance of an Winegrower License

Under the Alcoholic Beverage Control Act

WHEREAS, petitioner(s) has/have filed an application for the issuance of the above-referred-to license(s) for the above-mentioned premises; and,

WHEREAS, Lawrence Graves, David Mackenroth, and Tiana Grgurina, have protested the issuance of the applied-for license; and

WHEREAS, the protest(s) deal(s) with the proposed operation of the applied-for premise; and,

WHEREAS, the County of Placer, on March 30, 2000, approved a Minor Use Permit Number MUP-2511, limiting the petitioner's licensed operation; and,

WHEREAS, the issuance of an unrestricted license would be contrary to public welfare and morals and Section 23790 of the Business and Professions Code;

WHEREAS, the issuance of an unrestricted license would be contrary to public welfare and morals;

NOW, THEREFORE, the undersigned petitioner(s) do/does hereby petition for a conditional license as follows, to-wit:

1. There shall be no on-site wine tasting room incorporated on the property.
2. The wine making operation shall be confined to the lower floor of the structure; the upper floor shall be limited to the storage of wine and/or agricultural implements associated with the winery.
3. Wine making operations shall be conducted entirely within the winery building except for crushing process (including the separation of seeds, stems, foliage, etc.).
4. Wine production is limited to no more than 1,000 cases of wine within any twelve-month period.
5. Activities associated exclusively with the wine making operation shall be limited to daylight hours (or 7:00 a.m. to 9:00 p.m., whichever is more restrictive) on weekdays and 8:00 a.m. to 8:00 p.m. on Saturdays, Sundays and Federal Holidays.

This petition for conditional license is made pursuant to the provisions of Sections 23800 through 23805 of the Business and Professions Code and will be carried forward in any transfer at the applicant-premises.

Petitioner(s) agree(s) to retain a copy of this petition on the premises at all times and will be prepared to produce it immediately upon the request of any peace officer.

The petitioner(s) understand(s) that any violation of the foregoing condition(s) shall be grounds for the suspension or revocation of the license(s).

DATED THIS 8th DAY OF March, 2001.

David C. Wegner
Applicant/Petitioner

Patricia Wegner
Applicant/Petitioner

RECEIVED
MAR 12 2001
Dept. of Alcoholic Beverage Control
St. Louis, MO

LAURENCE A. GRAVES

6995 Ridge Road
Newcastle, CA 95658

November 14, 2006

Department of Alcoholic Beverage Control
Sacramento District Office
3321 Power Inn Road, Suite 230
Sacramento, CA 95826

Attention: MaryAnne Gilchrist
Licensing Representative

Re: Licensee: David and Patricia Wegner
Location: 7055 Ridge Road, Newcastle, CA 95658
Your File No.: 02-373346
Type of business: Winery - Pescatore Vineyard & Winery

Dear Ms. Gilchrist:

This letter is to confirm our telephone conversation of today's date, November 14, 2006, that on the above referenced winery and owners and in response to your letter to me of October 30, 2006, that I wish to again protest any changes from the original March 2, 2001, notice from your office that the ABC has only issued a license to the Wegners for a winery making operation and that at the time of the grant of that permit in 2001, one of the conditions was that there would be no on-site wine tasting.

Unfortunately for the winery's neighbors, immediately after this permit was issued in 2001, the winery changed from simply a winery to a total public, private and "by appointment" tasting room and has continued that wine tasting since 2001 in addition to having open public wine tastings and banquets, weddings, etc.

Please accept this letter as notice of protest to any change of conditions whatsoever from the winegrower's license issued in March of 2001. My reasons for this protest are the exact same as they were in my original protest in 2001.

If you have any questions or need further information, please do not hesitate to notify me.

Thank you for your time and consideration in this matter.

Very truly yours,

GRAVES LAW OFFICES



Laurence A. Graves

Attorney at Law

Home address -
6995 Ridge Road
Newcastle, Ca. 95652

LAG:kd

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Sacramento District Office
3321 Power Inn Rd., Ste. 230
Sacramento CA 95826
(916) 227-2002



October 30, 2006

Dear Mr. Laurence A. Graves:

A request has been made to modify/remove conditions on an alcoholic beverage license at a location near your residence:

LICENSEE: WEGNER, David Clarence
WEGNER, Patricia Mary

LOCATION: 7055 Ridge Rd.
Newcastle, CA 95658

FILE NUMBER: 02-373346

TYPE OF BUSINESS: Winery (dba: Pescatore Vineyard & Winery)

The subject licensee is requesting to modify/remove their conditions in order for their ABC license to be the same as their Placer County Minor Use Permit. I have enclosed a copy of the licensee's current conditions along with the licensee's letter describing the conditions they are seeking to modify/remove for your review. If you have any questions or concerns regarding this condition removal request, please contact me at 916-227-2067 by November 27, 2006.

Sincerely,


MaryAnne Gilchrist
Licensing Representative

Enclosures

PESCATORE VINEYARD & WINERY

Pescatore Vineyard & Winery, lic. # 02-373346 (attached), has been made aware that its ABC license is not the same as the Minor Use Permit granted by Placer County for its winery and tasting operations.

Pescatore Vineyard & Winery is requesting the Calif. ABC to amend its license in the following manner:

1. Permit wine tasting by appointment at the winery and tasting room.

This is already permitted by the Placer County Minor Use permit .
(attached)

2. Clarify the permitted use of the Winery building to include "tasting activities".
3. To permit wine events/tours on 5 weekends per year, beginning no earlier than 11:00 a.m. and ending by 6:00 p.m.

It was my mistaken understanding that my ABC license and my Placer County Minor Use Permit were the same. I had been told by the ABC person that since any objections to my permit had been withdrawn, that my license would be the same as my minor use permit.

Sincerely,


David C. Wegner

Owner

Pescatore Vineyard & Winery

RECEIVED
OCT 18 2005
Dept. of Alcoholic Beverage Control
Sacramento

October 26, 2006

Dear Neighbor,

I would like to explain a couple of things that we are doing at 7055 Ridge Rd, and Pescatore Vineyard & Winery.

First, you may have seen the notice posted by the mailboxes and at the entrance to our property. This relates to our splitting our 15.5 acres so that our son who lives in Phoenix can begin to build his home. This does not in any way relate to anything at Pescatore Vineyard & Winery. It is simply to allow his residence to be built over the next several years.

Second, I am beginning to redo my California ABC license and county Minor Use Permit to make them compatible and specifically accurate to what we have done over the last 5 years. **I am not trying to change anything we have been doing over the last 5 years.** At the time I applied for my minor use permit I stated I was not interested in a public tasting room with hours of operation, open on a regular basis. I was told by the county that I could do tastings by appointment. My use permit states "no public tastings" and I have been told numerous times this allows tastings by appointment. The latest time was Oct. 6th of this year, when I inquired about changes that are being made to better define zone definitions, one relating to wineries.

I have requested my Calif. ABC license be changed to read "tastings by appointment. One document I have from them says "no public tastings" while one says "no tastings". I want to clear this up with them and the county. I will do the same with my county Use Permit.

As most of you know the last two years we have had 4 "open house" tours each year (Feb., May, Aug. & Nov.)with the other wineres. At the time of my application for my minor use permit I was told if I wanted to do an open house event several times a year, I could get an "event permit" over the counter, no fee. Late last year one of the wineries was told they could not, since they had a "no public tasting" on their use permit. All nine wineries met with Tom Miller, head of Placer County on three occasions and he directed the Planning Dept. to allow these four events, plus the Farm and

200

Barn Tour, which is sponsored by the county. Some wineries wish to do more than these 4-5 events. **I do not.** I am asking the Calif. ABC and my new use permit to state only 4-5 events a year, and only noon to 5 p.m. this is no more than I was told I could do and I want my neighbors to know I have not changed what I want to do.

Some of you may receive a notice from the Calif. ABC and I wanted you to know this is because of my efforts to get everything consistent with county and state.

I am also applying for a change to my County Use Permit, but will wait until after the first of the year, because the county is adopting new sign ordinances that affect me. I will also put this in the new Use Permit. There will be an open hearing at that time and of course you can express your feelings.

If you have any questions, please feel free to contact me at 663-1422. You may also call Asst. Planning Dir. Melanie Heckel at 530-886-3000. She can attest to my intent and that the county has allowed what I am doing to date.

Sincerely,

Dave Wegner

Department of Alcoholic Beverage Control
3321 Power Inn Rd., #230
Sacramento, CA 95826

I Laurence A. Graves, withdraw my protest against David & Patricia Wegner, at 7055 Ridge Rd., Newcastle, for a type "02" Winegrower's License, if the applicants agree to have the below conditions placed on their license.

1. There shall be no on-site wine tasting.
2. The wine making operation shall be confined to the lower floor of the structure; the upper floor shall be limited to the storage of wine and/or agricultural implements associated with the winery.
3. Wine making operations shall be conducted entirely within the winery building except for the crushing process (including the separation of seeds, stems, foliage, etc.).
4. Wine production is limited to no more than 1,000 cases of wine within any twelve-month period.
5. Activities associated exclusively with the wine making operation shall be limited to daylight hours (or 7:00 a.m. to 9:00 p.m., whichever is more restrictive) on weekdays and 8:00 a.m. to 8:00 p.m. on Saturdays, Sundays and Federal Holidays.

Laurence A. Graves
Signature

3-5-01
Date

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Sacramento District Office
3321 Power Inn Rd. Ste. 230
Sacramento CA 95826
(916)227-2002



March 2, 2001

Lawrence Graves
6995 Ridge Rd.
Newcastle, CA 95658

Re: Wegner; "02"
Winegrower's license
7055 Ridge Rd., Newcastle

Dear Protestant:

I am the Investigator assigned to the above mentioned application and contacting you concerning the protest you filed against the license. The Wegner's have applied to this Department for a type "02" - Winegrower License to operate a winery.

In order for the County to approve the Wegner's project, they had to meet or agree to specific requirements, which are indicating in their Use Permit. The Wegner's have also been informed about conditions on the alcoholic beverage license to coincide with their Use Permit. Specifically:

1. There shall be no on-site wine tasting.
2. The wine making operation shall be confined to the lower floor of the structure; the upper floor shall be limited to the storage of wine and/or agricultural implements associated with the winery.
3. Wine making operations shall be conducted entirely within the winery building except for crushing process (including the separation of seeds, stems, foliage, etc.).
4. Wine production is limited to no more than 1,000 cases of wine within any twelve-month period.
5. Activities associated exclusively with the wine making operation shall be limited to daylight hours (or 7:00 a.m. to 9:00 p.m., whichever is more restrictive) on weekdays and 8:00 a.m. to 8:00 p.m. on Saturdays, Sundays and Federal Holidays.

If the above conditions address your concerns, please sign and return the enclosed letter back to this Department. Violations of conditions are grounds for the Department to take disciplinary action.

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If you have any questions, please feel free to call me at (916)227-2154.

Sincerely,

A handwritten signature in black ink, appearing to read "Diana Fouts". The signature is fluid and cursive, with a large initial "D" and a long, sweeping underline.

Diana Fouts
Investigator

Enc.

STATE OF CALIFORNIA
Department of Alcoholic Beverage Control
3810 Rosin Court, Suite 150
Sacramento, CA 95834

I hereby protest the issuance of a license under the Alcoholic Beverage Control Act to

David, Clarence and Patricia Mary Wegner
Name (s) of Applicant (s)

For premises at 7055 Ridge Road, Newcastle Ca. 95658
Exact address of proposed premises

on the grounds that: ① Issuance of a license to sell alcoholic beverage on the above property would violate the conditions of approval of a winery operation by Placer County Zoning Ordinance 28-00, a copy of which is attached to this protest, see specifically conditions ① ⑬ ⑰ ⑱ & ⑳

② The road easement from Ridge Road to this property presently serves approximately twelve residential homeowners in a rural area. A commercial-retail operation would overburden the road easement with traffic and very probable vehicle parking causing ingress and egress problems. The entrance to Ridge Road is presently a school bus drop and pick up stop.

③ From a safety standpoint I believe an engineering study should be required for the entrance to Ridge Road as oncoming traffic view, both right and left, is very limited and increased traffic could make this very hazardous to Ridge Road autos and bicyclists.

④ Commercial traffic in this area would increase the fire hazard as there is much dry grass here in spring, summer & fall.

I, Laurence A. Graves, declare under penalty of perjury:
Name of Protestor

That I am the protestor herein: That I have read the above protest and know the contents thereof: That the same is true of my own knowledge except as to those matters which are therein stated on information and belief, and as to those matters I believe to be true.

Executed on January 23, 2001 at Newcastle California.

Laurence A. Graves
Name (printed)

Laurence A. Graves
Signature of Protestor

916-663-3731
Telephone Number

6995 Ridge Road, Newcastle, Ca. 95658
Address of Protestor

PLACER COUNTY PLANNING DEPARTMENT
CODE ENFORCEMENT DIVISION

AUBURN OFFICE: 11414 "B" Avenue, Auburn, CA 95603 (530) 889-7480 or FAX (530) 889-7499
TAHOE OFFICE: 565 West Lake Boulevard, P.O. Box 1909, Tahoe City, CA 96145 (530) 581-6280 or FAX (530) 581-6282

COMPLAINT FORM

Complainant's Name: Laurence A. Graves
Mailing Address: 6995 Ridge Road
Newcastle, Ca Zip Code: 95658
Telephone: Home: 916-663-3731 Business: 530-885-9346
Your Signature: Laurence A. Graves Date: 1-23-01

NOTE: Due to legal requirements, only written and signed complaints can be investigated. Complaints will remain confidential unless legal action is taken that may require the complainant to be specifically identified.

This report will assist the Code Enforcement Division in investigating your complaint. Complete and accurate information with photographs and/or additional documentation will assist in expediting this review. Complaints regarding activities/uses involving potential health or safety hazards will be given priority. All other complaints will be investigated in sequential order as they are received.

Type of Complaint: On 1-10-01 Notice of Application for an Alcoholic Beverage license was posted on the gate of the Hegney property. Complainant assumes this is, in effect, the opening step for a commercial retail sales of alcoholic beverages. This appears to be a violation of the 3-28-00 Placer County Zoning decision conditions for MUP-2571 for a winery on this property. It appears this matter should be investigated with notice of hearing to property owners for objections. Copy of 3-28-00 MUP-2571 decision and complainant's notice to Hegney are attached.

ASSESSOR'S PARCEL NUMBER: 031-161-028
Address of Violation: 7055 Ridge Road, Newcastle, Ca. 95658
Property Owner's Name & Mailing Address: David Hegney
240 Canyon Highland, Oroville, Ca. 95966
Property Owner's Telephone: Home: 530-534-7908 Business: ()
Tenant's Name & Mailing Address: _____

Tenant's Telephone: Home: () Business: ()

If you have questions regarding this process or the status of this complaint please contact the Placer County Code Enforcement Division in your area.

"THIS FORM IS NOT A PUBLIC RECORD"

Pescatore Vineyard & Winery

7055 Ridge Road
Newcastle, California
916-663-1422



Pescatore Vineyard and Winery is a small family estate located in Newcastle, Placer County. The decomposed granite soil, along with the rolling hills provide a Rhone style environment. Their wine is made in the traditional way, using a basket press, and is aged in American and European oak barrels with no fining or filtering.

Vineyard & Winery

Welcome

Vineyard & Winery

Our Wines

History

News

The estate grows and bottles its wine on the property, offering a selection of Zinfandel, Barbera, Syrah and Petite Sirah. the 2500 vines, primarily purchased from Duarte Nursery in Lodi, are thriving. The decomposed granite in this area, along with the rolling foothills, provide a Rhone-style environment that is ideal.

Not only is the wine "growing into its own" and quite good - the atmosphere is lovely. There are the soothing sounds of nearby Auburn Ravine Creek as well as other details unique to this winery, such as the grape-cluster-enhanced wrought iron railing on the balcony to the view of the rolling hills.

It is a perfect place for wine sampling, weddings, small group tours or other special occasions.



Zinfandel

Winery Tour

Sponsored by:

Event Details:



PLACER COUNTY
WINE & GRAPE
ASSOCIATION



Cost:

Free!

Wineries Open Both days:

Ophir Wines, Pescatore Winery, Mt. Vernon Winery,
Secret Ravine Winery, Hyatt-Baumbach Wines &
Fawnridge Winery.

Wineries Open One day:

Green Family Winery - Open Saturday only 12 to 5 PM,
Viña Castellano - Open Saturday only, Rancho Roble -
Open on Saturday only

What's Happening: Wine Tasting in the Gold Country!

Nine of Placer County's commercial wineries are holding open houses on this November Weekend. Come and spend a late autumn afternoon with us in the foothills of Placer county and taste the award-winning wines that are being produced in here.

Please note that not all wineries will be open both days, so be sure to make a note of which wineries will be open on the day you plan to visit.

Of course, visitors must be 21 years of age or older to taste wines. IDs will be checked so please have them with you. Designated drivers are encouraged — there will be water and soft drinks available for the designated drivers at the various stops.

Printable Driving Directions:

Placer Winery Tour: [driving directions](#)

Pescatore Vineyard & Winery

7085 Ridge Road
Newcastle, California
916-863-1422



Pescatore Vineyard and Winery is a small farm estate located in Newcastle, Placer County. decomposed granite soil, along with the rolling provide a Rhone style environment. Their win made in the traditional way, using a basket pr and is aged in American and European oak bar with no fining or filtering.

Welcome

Vineyard & Winery

Our Wines

History

News

News & Upcoming Events

1. Oct. 1st - Auburn Wine Festival, Pescatore Winery and 20 other wineries, along with restaurants will be serving samples and tastes from 1-5 p.m. Come spend an afternoon wine tasting!! See placercountywineandgrape.org for more details!!
2. Nov. 12th - Pescatore will join other Placer County wineries in an open house featuring our newest releases and arts and crafts for the holiday season. Noon -5p.m.
3. Nov. 19th - Pescatore Winery will host Italian Chef Richard San Filippo in a 6 course italian dinner. Chef Richard will demo some of his creations. Cost is \$50 per person including dinner, wines, dessert, etc. Call 916-863-1422 as we will limit the number of persons!!



Welcome | Vineyard & Winery | Our Wines | History | News

Thursday, 05 May 2005

What's going on at Pescatore Winery?

Pescatore Vineyard & Winery
7055 Ridge Road
Newcastle, California 95658
916.663.1422

Local artisans that will be on hand at Pescatore

Irene Alfieri - With degrees in science (Botany / Anatomy / Morphology) from Pennsylvania State University and the University of Wisconsin, and having studied art and art history at



the University of Cologne, Germany and Orange Coast College. Irene Alfieri's paintings and sculpture reflect an amalgam of science and art - a search for the truth and attention to detail. While

classic in style and temperament, her work embraces the best of the contemporary idiom in "intimate landscapes" - still life and wildlife vignettes executed in acrylic, oil and casein as well as realistic sculpture in ceramic and bronze that capture the dynamism of motion.

Ms Alfieri has previously taught Scientific Illustration with an emphasis on botanical specimens at California State University, Long Beach.

Her works have been exhibited in shows throughout Orange, Solano and Butte Counties and has been featured in "Wildlife Art Magazine". She is represented in private collections throughout the country.

Stan W.
McQuown -
Born in



Event Details

Who: Three Placer County wineries
What: Open House and wine tasting
Date: Saturday, May 14, 2005
Hours: Noon to 5 PM
Cost: free!
More Information: [Information](#)
PH: 916.663.1422

Get a Map

[[map to Secret Ravine](#)] (yahoo maps)
[[map to Pescatore](#)] (yahoo maps)
[[map to Ophir](#)] (yahoo maps)
[[PlacerGovrn Fruit Trail map](#)] (2.8 MB .pdf)

"Special" goes on

Pescatore will be tasting barrel samples from its 2004 vintages.

Pescatore Winery is also releasing the last of their 2002 wines - a limited production Syrah aged in French Oak and estate bottled. Only 22 cases were made.

Visit Pescatore Winery's [home page](#) for more information





Pescatore Vineyard & Winery

7055 Ridge Road
Newcastle, California
916-663-1422

Pescatore Vineyard and Winery is a small family estate located in Newcastle, Placer County. The decomposed granite soil, along with the rolling hills provide a Rhone style environment. Their wine is made in the traditional way, using a basket press, and is aged in American and European oak barrels with no fining or filtering.

News & Upcoming Events

Local Artists and Barrel tasting!!!
~ May 14th ~
10 a.m. - 5:00 p.m.

Come to our local wineries and see displays of our local artists.

Also, we will be barrel tasting the 2004 harvest in the wine cellar!!! Food, too!!

Secret Ravine and Ophir Wines will also be participating in this event.

Visit all three wineries!!!

Placer County Spring Wine Tasting
~Monday May 16th~
6 - 8:30 p.m.

Latitudes Restaurant in Auburn
130 Maple Street

Tickets are \$15 per person
and includes Appetizers by Latitudes

Call 916-663-1422.

There will be 9 of our local wineries at this event
and special pricing will be available.



Thursday, 05 May 2005

Welcome to the Placer Hills Winery Tour

There is a quiet renaissance going on in the hills of Placer County - vineyards and wineries are returning to the foothill slopes that, before Prohibition, had more wineries than the Napa/Sonoma region. The granite soil and Mediterranean-like climate are ideal for the cultivation of wine grapes, and the new, small wineries are producing a wide range of offerings that bring the adventurous California spirit to the European traditions of their wines.

To celebrate this winemaking renaissance, the wineries of Placer county will host a series of "Open Houses" -- also known as the "Placer Hills Winery Tour" -- beginning this spring and continuing every three months or so, to acquaint new and old friends with the award-winning wines being made by the winemakers of Placer County. While the focus will be on wine and wine-tasting, we'll provide a variety of lively programs for our guests to enjoy, including tasty treats, art displays and live music, hands-on vineyard and winery demonstrations, create-a-blend sessions, and more. At every stop on the tour you will meet the real people who planted the vines, grow the grapes and make the wine.

We look forward to seeing you and sharing the renaissance of Placer County wines at the "Placer Hills Winery Tour". Use the links above to see what each winery is planning. Please bookmark this site and keep in touch.

Event Details:

Who: Three Placer County wineries

What: Open House and wine tasting

Date: Saturday, May 14, 2005

Hours: Noon to 5 PM

Cost: free!

More Information:

Information

PH: 530.823.8030

Get a Map:

[[map to Secret Ravine](#)] (yahoo maps)

[[map to Pescatore](#)] (yahoo maps)

[[map to Ophir](#)] (yahoo maps)

[[PlacerGrown Fruit Trail map](#)] (2.8 MB .pdf)

Local Lodging:

South Placer Tourism -
[Where to Stay](#)

[Gold Country Bed and Breakfast Inns](#)

[Auburn, CA Lodging](#)

"Special" goings on:

Ophir Wines will be unveiling its newly-released 2004 *Oui*, the 2002 Petite Sirah Reserve, and 2004 Sauvignon Blanc.

Pescatore Winery is releasing the last of their 2002 wines - a limited



Secret Ravine Winery

Secret Ravine Vineyard and Winery is a family-owned company with the

objective of producing "Fine



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Wines from Locally Grown Grapes", wines that you would choose to enjoy with your evening meal. While achieving this objective, our goal is to create an educational and relaxing venue for you, our customer, which encourages repeat visits and inspires further exploration of wines and wine grape growing.



Making wine commercially calls for many skills beyond viticulture and enology: business management, marketing and sales, information management, finance and accounting, system and process engineering, to name a few. Besides being skilled at wine consumption, the company principals include a Manufacturing Engineer, an Accountant, an Information Technologist, a Comptroller, and a retired Human Resources Manager an Aerospace Engineer and former University Professor.

We hope that we have succeeded in producing a fine wine that you will enjoy again and again. More details: [Secret Ravine Open House](#)

Pescatore

Pescatore Winery



Dave and Patty began playing with wine making about 20 years ago, along with some friends. The hobby became an obsession, and they decided they needed some vines of their

own. Seven years ago they purchased their hillside property in Newcastle and planted five acres of vines which comprise their vineyard today. With family and some professional help they built their winery and tasting room.



~ More Placer Wines to Taste ~

First Annual Placer County Spring Wine Tasting

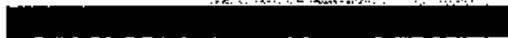
Where: Latitudes Restaurant, Auburn, California
When: May 16th, 2005
Time: 6 - 8:30 PM
Cost: Tickets \$15
Phone: (530) 885-9535 for tickets
Information: (530) 885-9535

What's Happening: Spring wine tasting and sale at Latitudes Restaurant. Placer County wineries only. Each winery to bring no more than 4 wines. Their best!

Not in or around Placer County, California and looking for "wine" events?

Try the [Local Wine Events](#) web site. It's a growing online bulletin board of wine-related events nationwide.

All of the vineyard management, wine making and bottling are done by the family: Dave and Patty, Tim and Misti and Steve and Noelle. Pescatore grows four grape varieties; Syrah, Petite Sirah, Zinfandel and Barbera. Their wines are all estate-bottled and made in the traditional way, using a basket press.



Pescatore (fisherman in Italian) may seem like an unusual name for a gold country winery; however it has special meaning to the Wegners. Dave's other hobby is fishing and it is Patty's immigrant grandmother's maiden name.

We'd like to invite you to come sit on our deck overlooking the vineyard while you enjoy tasting our wines. We look forward to meeting you.

More details: [Pescatore Winery Open House](#)



Ophir Wines

Ophir Wines is the story of a good time getting out of control. At the time their paths crossed, the three partners each had a long-standing interest in wine and were making small lots for friends and family. When they found themselves neighbors in Ophir, Paul introduced himself and Mike to

Craig who was a 20-year Ophir resident and wine grape grower. They teamed up



in 1996 to manage the vineyards and make small, but ever-increasing quantities of wine. Fall picking and spring bottling became occasions for great "work" parties and the enterprise proceeded in a relaxed mode for several years.

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March 1, 2007

To: Placer County Planning Department Zoning Administrator

Fm: Neighborhood Rescue Group Association

Re: PMPMT2006O909, PESCATORE WINERY/DAVE WEGNER - MINOR USE PERMIT MODIFICATION - TO MODIFY USE PERMIT TO ALLOW WINE TASTING ON A BY APPOINTMENT BASIS.

We believe this "modified use permit to allow wine tasting" as it is now written should be denied for a number of reasons; some of them to be presented at this hearing, but a number of documents with considerable detail are submitted today with this letter for the Administrative Record.

The Neighborhood Rescue Group Association (the Association) is a coalition of home owners in Placer County that have a vested interest in this application because the granting of this permit will have a deleterious impact on our quality of life. This proposed use denies us our individual rights.

These rights, for the purpose of this filing, are found in the accepted definition of how one individual may interact with another in society. Individual rights are distinct from human rights as the possession of these rights does not depend on *humanness* as the source of authority, but rather the actions of the individual who does things, albeit on their own property that disturbs the normal peace and quiet of a very rural neighborhood, and thus violates the individual rights of others.

Our concerns are several and the years of exposure to the activities at the Dave Wegner Pescatore Winery have abundantly shown us that those activities very often violated our individual rights. Since the formal complaints to the County last year, at least the loud music has stopped.

We believe that we should have a right to peace and quite in our own yards, especially on balmy summer evenings. After all, we moved to this very area for that special quality of life.

The search for information has at times been very frustrating because documents were not available in a timely manner or the NRG was denied access to records that should have been provided under the law. We will document this thoroughly.

SPECIFIC COMPLAINTS (1) -The NRG first places on record, that only a portion of the County Staff report for this meeting was available just two days on 2-27-07 before the hearing. The all important engineering and environmental staff reports were not ready when we called at the

**Neighborhood Rescue Group Association – Comments – Call for Denial or Continuation
PMPMT2006O9O9, Pescatore Winery/Dave Wegner - Minor Use Permit Modification to
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Community Development Resource offices. This makes it very difficult if not impossible to prepare our response to this project.¹

This tardiness in providing these staff reports may well be a violation of the Bagley-Keen Act which states: *The notice and agenda provisions require bodies to send the notice of its meetings to persons who have requested it. (§ 11125(a).) In addition, at least ten days prior to the meeting, bodies must prepare an agenda of all items to be discussed or acted upon at the meeting. (§ 11125(b).)*

In practice, this usually translates to boards and commissions sending out the notice and agenda to all persons on their mailing lists within the time limits specified. Not only was the material NOT sent to us in a timely manner, but when it only came available two days before the hearing (022707 As noted above the other two staff reports were not ready.²

SPECIFIC COMPLAINT (2) Starting with the NOTICE OF PUBLIC HEARING - SUBJECT PROPERTY (AP# 031-161-028) comprises 1 5.5 acres, is zoned F-B-X-4.6 ac. mm. (Farm combining Building Site Size of 4.6 acres minimum), and is located at 7055 Ridge Road in the Newcastle area, let the record show that this description is incorrect.

This is not a 15.5 acre property but three distinct smaller properties as is shown on Placer County's Tentative Parcel Map of July 2006. *NRG Exhibit (1)*

If the County is to adequately consider this permit modification request, it should be working with the correct property description. We submit that this alone is grounds for our request to send this project back to Staff for the proper description, modification and update of the Staff reports accordingly. After all, the County approved this Land Division way back in August, 2006.

Next in this fatally flawed Notice of Public Hearing is the fact that the extremely late availability of the new “Staff Report” makes it very difficult for the public to adequately examine the very real goal or objective changes brought forward in contrast to the Notice of Public Hearing. There is no excuse for this exceedingly short period of time to examine and analyze this new Staff Report.

¹ “The California Supreme Court has stated that members of the public hold a ‘privileged position’ in the CEQA process. Public involvement is an essential feature of CEQA -- Guidelines sec. 15201.

² **Guideline: 15201. Public Participation** Public participation is an essential part of the CEQA process. Each public agency should include provisions in its CEQA procedures for wide public involvement, formal and informal, consistent with its existing activities and procedures, in order to receive and evaluate public reactions to environmental issues related to the agency's activities. Such procedures should include, whenever possible, making environmental information available in electronic format on the Internet, on a web site maintained or utilized by the public agency.

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Since the Staff Report IS substantially different than the statements in the public notice and is as it were without two vital elements, engineering and environment health it does not meet basic CEQA Requirements . Take for instance,

SPECIFIC COMPLAINT (3) “CONDITIONS OF APPROVAL - 2. The following uses and activities are specifically prohibited by this approval, but may be authorized by approval of a Temporary Outdoor Event permit on a case by case basis:” (Emphasis ours)

“Outdoor amplified music, weddings, wine tours, wine dinners, rental hall, community center, rural recreation, or similar activities that would be contrary to the use of this facility for wine tasting and sales by appointment.”

The only time we have heard anything about any issue remotely like this was in an e-mail exchange with Melanie Heckel dated 13 Dec. 2006 - *NRG Exhibit (2) Special Note*: The way MS. Heckel writes e-mails is very difficult to follow. We have scanned this e-mail, separated out the questions from Mr. Giles and the response of Ms. Heckel. Both pages comprise Exhibit (2) with the original following our expanded, easy to follow first page.

There is absolutely nothing in this e-mail from Ms. Heckel that tells NRG anything about Temporary Outdoor Event Permits. This is still another reason for us to legitimately call for a continuance of this hearing.

Another reason why Placer County cannot go ahead with this hearing is the fact that the County gave this Staff Report to NRG only two days before the hearing and DID NOT provide any details on Temporary Outdoor Event permits.³

The way this is being handled is grossly unfair and could well be grounds for a CEQA Writ of Mandate as well as are the many other items that we bring forward at this time in this hearing with the filing of today with the County for the Administrative Record as well as many other documents yet to be processed and filed.

There are many other elements of this Staff Report that are totally new to the NRG and other citizens who have been following this process, so much so that it is overwhelming and there is not enough time to present them at this hearing or in the documentation that is filed today. For this reason NRG specifically reserves the right to make these comments on this Staff Report on a continuing basis and file them at an early time after this date.

³ **CEQA Guidelines - 15088. Evaluation of and Response to Comments** In particular, the major environmental issues raised when the Lead Agency's position is at variance with recommendations and objections raised in the comments must be addressed in detail giving reasons why specific comments and suggestions were not accepted. There must be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice.

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Modify Use Permit to Allow Wine Tasting on “By Appointment Basis” - 3-1-07 - 4 of 24**

SPECIFIC COMPLAINT (4) Turning to Placer County documents that show still further what a complicated issue this is, we cite the following e-mail and provide excerpts. *NRG Exhibit (3)*
Areas for comment are shaded & numbered.

From: Alexander Fisch Sent: Wednesday, February 07, 2007 11:19 AM To: Laura Mattson
Cc: Sharon Boswell; Melanie Hecke; George Rosasco –
Subject: Pescatore Winery - PMPM 20060909

Laura,

(1) - After a very muddy and confusing review process, Sharon and I have determined that Dave's request to have wine tour and other open house events cannot be supported with this application.

If the associate planner who works with this many hours a week finds this a “muddy and confusing review process” how is the general public going to understand this, especially when they have been cut out of much of the process as will be proven by documents filed with this letter? How can the public take any action when they are not even provided all the documents or are given those documents so late as to make them worthless? Are these not grounds for continuation?

His request cannot be supported for several reasons, but namely, the approved MLD for a three way split of the property would place his overflow parking on a separate parcel: In fact, from our best assessments, it appears that it would be divided between two parcels, neither of which contains the winery.

This is a perfect example of why we maintain that the Staff Report given to us only two days before the hearing makes it impossible to deal with the germane issues. As far as we can tell, this issue is not dealt with in the Staff Report.

As he is currently making improvements to satisfy the conditions of the MLD, I see no reason why it will not be vested.

Once again NRG and others are left with questions as to exactly what this means. The use of acronyms by Placer County has never been fully explained, nor has a list of such acronyms been given along with meanings. Mr. Fisch states that he sees no reason why it will not be vested. So what does that mean?

He states: Further complicating the issue, the proposed overflow parking area would need to be encumbered by a parking easement. That easement area would also contain the driveway serving one of the parcels, thus requiring an easement within an easement. Sharon and I spent some time trying to tease these issues apart, but could not for the simple fact that they are inseparable. It does not appear that there is another location anywhere on the property that would reasonably accommodate overflow parking without significant grading work, and that is not part of this review.

This brings up still another question in what Mr. Fisch calls “. . . a very muddy and confusing review process.”

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We will try to sort this out below, but we want to deal with something that is literal as well as figurative. Long after this process was started the County required the completion of an Environmental Questionnaire by the proponent. This was dated on January 4, 2007 and is ***NRG Exhibit (4)***

Can the County now explain to the Public why this questionnaire was not required months before this? Such a report should have been done at the very outset of this process. Unfortunately, FROM the outset of this process is difficult to determine in this mess of paperwork. So why is it, that this environmental questionnaire is now required in early January 2007.

When Mr. Wegner completed this questionnaire, Mr. Giles responded to the County with a detailed list of the deficiencies of the questionnaire, and there are many, one of which enters into discussion because it is extremely germane to the terms MUDDY and CONFUSING used above. On 1-23-07 Mr. Giles filed his comments with the County. ***NRG Exhibit (5)***

On this issue Mr. Giles wrote about the questionnaire, directly and solidly disputing the answers of Mr. Wegner. Below are the responses by Mr. Giles that are in opposition to the Wegner answers. Please also take note that the Giles report shows that some of the Wegner answers were either incomplete or incorrect:

II. General

No. 7 - Yes, the project may result in indirect discharge of sediment into a stream or pond located on the property. Crude grading of roads and parking areas along with compaction of soil has left areas above the stream and riparian habitat devoid of vegetation and vulnerable to runoff.

III. Drainage, Hydrology and Water Quality

No.1 Yes. There is a pond adjacent to the property boundary in addition to a small pond and stream on the property. The stream is a tributary to Georges Ravine (designated Salmon Habitat)

No.2 Yes. Water may be diverted into this body of water.

No.3 There is a significant amount of concrete and asphalt surface in addition to graded, compacted dirt roads and parking areas that run perpendicular and parallel with the riparian habitat.

No.5 Yes. Water from the project can run-off into the watershed drainage. The amount of crude grading and compacted soil devoid of vegetation greatly inhibits the ability of the soil to absorb water.

No.12 Yes. On-site drainage patterns have already been modified and if this project is approved will further compact soil and further modify drainage patterns.

There are many questions that come out of this. First of all, there HAS BEEN considerable grading on this property, either before or during the split cited in our Specific Complaint (2). This kind of

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grading should have required permitting from Placer County. Were these permits ever drawn and were they granted?

If not this is an illegal grading, just one more huge question that is not only germane, but extremely important to the issue. As Mr. Giles has pointed out:

- #-1 - There is a pond adjacent to the property boundary in addition to a small pond and stream on the property. The stream is a tributary to Georges Ravine (designated Salmon Habitat)
- #-3 There is a significant amount of concrete and asphalt surface in addition to graded, compacted dirt roads and parking areas that run perpendicular and parallel with the riparian habitat.
- #-5 Yes. Water from the project can run-off into the watershed drainage. The amount of crude grading and compacted soil devoid of vegetation greatly inhibits the ability of the soil to absorb water.
- #-12 Yes. On-site drainage patterns have already been modified and if this project is approved will further compact soil and further modify drainage patterns.

As far as we can tell these items have not been fully dealt with by Placer County, but again the very short period of time the public has had to review the County documentation makes it impossible to know for certain that these issues have been fully dealt with by the County.

Mr. Fisch spells out the problem in the memo we have been working with:

Further complicating the issue, the proposed overflow parking area would need to be encumbered by a parking easement. That easement area would also contain the driveway serving one of the parcels, thus requiring an easement within an easement. Sharon and I spent some time trying to tease these issues apart, but could not for the simple fact that they are inseparable, it does not appear that there is another location anywhere on the property that would reasonably accommodate overflow parking without significant grading work, and that is not part of this review.

There can be no doubt it is “complicated” “an easement within an easement” “the simple fact that they are inseparable” are phrases that give NRG considerable concern. So the conclusion of Mr. Fisch is quite interesting:

It does not appear that there is another location anywhere on the property that would reasonably accommodate overflow parking without significant grading work, and that is not part of this review.

So if it was not part of their review back on February 7, 2007 then when was it reviewed and what was the resolution? In the short time we have had to examine this matter, we assure you that it was not transparent, and that is one element of both the Brown Act and Bagley-Keen that is stressed again and again. Communications from the Planning Department were very confusing and contradictory as the next section of these complaints will show.

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SPECIFIC COMPLAINT (5) This comes from a County e-mail to Mike Giles. The copy we worked from was so faint that we could not get a satisfactory scan, but the pertinent paragraph is quoted herewith and the document is *NRG Exhibit (6)*

Subject: RE: faulty environmental questionnaire
From: Melanie Heckel <MHeckel@placer.ca.gov> Date: Thu, 1 Feb 2007 17:05:38 0800
To: Mike Giles <douhleduck@lanset.com>

With copies to Gina Langford, John Marin, Maywan Krach, Michael Johnson and Alexander Fisch

“The County has now determined that the environmental review is not necessary due to the limited scope of the use permit proposal and the fact that the facilities are existing. Therefore, we have determined that the MUP request to allow tasting by appointment only and five industry week-end events at the existing facility falls within the Categorical Exemption Class 1, Existing Facilities. Nevertheless, we will forward your comments to all County staff who are evaluating this project so they can take your concerns into account in the context of reviewing and conditioning the Minor Use Permit.” Melanie Heckel

First, please note the date of 1 Feb. 2007. The previous e-mail cited in our Complaint (4) – the exchange between County staff people was dated 1-7-2007 and the very words and many others cited by Mr. Fisch clearly show that these problems are so severe that they were “. . . a very muddy and confusing review process.”

So, is this the simple way out for the County -- to declare this a Categorical Exemption?

We seriously doubt that a judge reviewing this “very muddy and confusing review process” would see it this way and the NRG surely does not see it that way and this document and others to follow will describe in considerable detail why this is not the case.⁴

In any event, if by the time this issue is brought before today’s hearing this is still the County position, we respectfully demand that Placer County provide the exact rationale and the documentary evidence to show how the Staff came to the conclusion that this project is a Categorical Exemption Class 1. That is our legal right as has been cited in the footnote on the previous page.

Apparently Alexander Fisch and the person named Sharon were not able to sort this out as is obvious in our Exhibit (5). Continuing violations of the law by the owner, David C. Wegner, 7055 Ridge Road, Newcastle, CA have been called to the attention of Placer County many times (as

⁴ 54959. Each member of a legislative body who attends a meeting of that legislative body where action is taken in violation of any provision of this chapter, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this chapter, is guilty of a misdemeanor.

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evidenced by the records provided herewith) resulting in many COMPLICATIONS. NRG has compiled a list of the complaints, the factors involved in each of these situations and has many supporting pictures -- *NRG Exhibit (7)*

SPECIFIC COMPLAINT (6) To further demonstrate the totally confusing Placer County process after citation of above documents we present the next chapter showing that the County was going ahead with an Initial Study on this project. If it was exempt as per above, why is the County going ahead with this?

FROM: Maywan Krach, Assistant Technician
SUBJECT: Pescatore Winery (PMPM T20060909), initial review

The Placer County Community Development Resource Agency is the Lead Agency for the proposed project. The proposal is being forwarded to responsible and interested agencies for early consultation pursuant to Section 15063(g) of the California Environmental Quality Act (CEQA) Guidelines. The County is in the process of preparing an Initial Study to identify what significant impacts need to be analyzed in conjunction with this project.

The full document is *NRG Exhibit (8)*

This document is still another representation of how David Wegner continues to ask for more and more, and even though the County has strong rules about what can and cannot be done at these wineries. Reading it shows that Mr. Wegner continues to demand more and more with his use permit filings.

How does one reconcile the statements of Ms. Hickle in Exhibit (6) - the existing facility falls within the Categorical Exemption Class 1, Existing Facilities, with the statement in the above document which says:?

The County is in the process of preparing an Initial Study to identify what significant impacts need to be analyzed in conjunction with this project.

We state in clear terms once again, this process is so totally confusing with constant changes being made in the Planning Department that it is extremely difficult, if not impossible for the lay person to follow it and make comments, especially in the short span of time cited above several times.

Mr. Wegner, in part of his attempt to justify this process stated in the Environmental Questionnaire XIV Nr. 3 that his facility picnic area provides recreational facilities to the community. This is not correct. By his own repeated statements, the MUP is primarily asking for Wine Tasting by Appointment. It may seem trivial, but it is indicative of what lengths will be taken by Mr. Wegner to get his way in this matter.

Another vital issue tied to this whole question of Exemption, is the failure to enforce the laws. The ignoring of formal complaints of violations filed with Placer County must be examined in

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relationship to the reasons for Placer County to dramatically reverse itself and declare this most questionable exemption as cited in Exhibit (7)

SPECIFIC COMPLAINT (7) There are a series of communications with the Planning Department back in February and March of 2006 that may bring this into sharper focus. Bear in mind the intent of the Brown Act citation we gave in Footnote 4, page 6 when you read this series of documents.

Each one of these four documents to follow tell a story, but the five taken together tell and even more interesting and indicative story. Indicative of some rather questionable activities of Placer County officials at the highest levels.

NRG Exhibit (9-2-A)

E-mail From: Mike & Lonna Giles] Sent: Wednesday, February 21, 2007 1:21 PM
To: Melanie Heckel – Subject: meeting with reps

Melanie, In response to my “meeting with reps” email dated 022007 you informed me that Placer County representatives are currently meeting with only small groups of Winery representatives and ideas are being proposed but no policies are being modified or changed. Therefore, after discussion with Mike Johnson it was determined that I could not attend these meetings.

If this is not your understanding of our conversation, please clarify for me your position on this issue as soon as possible.

I also wish to state my position that meetings between winery owners and Placer County representatives are resulting in code modifications and/or changes and therefore should be open to all interested parties such as myself. Thanks

This is most representative of actions that are always encouraged by CEQA – public participation at every level in the CEQA process. The normal response of an individual who will be very severely impacted by this winery and how it is permitted by Placer County. This also has to do with the doctrine of Thresholds of Significance.

Placer County held several months of meetings in 2005 to study this whole process all with the aim of getting the public more involved with the land-use process. It is our understanding that these meetings resulted in policy that would follow the CEQA guidelines to make every opportunity for the public to participate as the process went forward, thus starting at the Threshold of Significance and continuing on. Mr. Giles was doing the correct thing according to CEQA. ⁵

⁵ **15064.7. Thresholds of Significance.**

(a) Each public agency is encouraged to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects.

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How Mr. Giles was treated by the Planning Department flies in the face of this doctrine and others within CEQA which places great importance on the involvement of the public. Perhaps many of the problems that are now faced by Placer County in resolving this issue could have been avoided had Placer County taken a different approach. So how did they respond to Mr. Giles? Again from NRG Exhibit (9)

Melanie Heckel wrote Mike, Your understanding is correct. We are having small “working group” meetings to address the goals of winery owners compared with County codes and standards. These meetings alone cannot result in code modifications, which can only be approved through public hearings before the Planning Commission and Board of Supervisors.

So far, we are just in the early talking phases and there is no clear direction about where we are going or whether we will reach any type of consensus. These meetings are similar to meetings we frequently have with developers on individual projects to work through a variety of issues and we do not typically invite members of the public until we reach a workshop or public hearing phase.

However, once I have any idea where these discussions may lead, I will convene a meeting with the interested winery neighbors. Melanie

Several things are of note about this statement by Ms. Heckel. Does the County NORMALLY dissuade interested individuals from small working groups? Taken the number of complaints that had already been filed against the Pescatore Winery, it would have been very wise to have included Mr. Giles and other neighbors in these discussions.

The fact is that there are tracks all through the County documentation that show, not only that these meetings were held, but that there was preferential treatment given to Mr. Wegner and the other wineries at the continual expense of the neighbors to Pescatore Winery. A case in point is in the following excerpts from a January 18, 2007 series of e-mails from the County to Staff people and to Mr. Wegner. This three page document is extremely revealing about the attitude of County Staff and the treatment Mr. Wegner was given. This is *NRG Exhibit (9-2-B)*

>>> Alexander Fisch 1/18/2007 9:50 AM >>> Dave,

The County is absolutely interested in seeing you and other wineries succeed, and I am committed to helping you get through our regulatory process... that is my job. But I do not have any authority to relieve you of our requirements. The best I can offer is that I will give you the most accurate information about the process as I can.

Had the County expressed this kind of attitude toward Mr. Giles and other neighbors to this project it would have reflected a fairness that is required in the CEQA process. It is safe to say that when all of this is compiled and submitted to Placer County, there will be an extremely sound foundation for further CEQA legal action.

We will come back to this document because it shows a certain arrogance displayed by the proponent of this project which would, if granted totally it will run over the individual rights of the

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homeowners in that immediate vicinity. This has to be one of the more egregious elements of this whole sorry episode.

NRG Exhibit (9-2-C)

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

How is it possible that this statement can even be in a County Document? 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.

First of all, Steve Wegener is not the owner of the winery but the son of the owner, David Wegener and thus should have less authority with the County than his father. Just why is Placer County giving such preferential treatment to these people.

The violation of the law was first reported on the Placer County Complaint Form received in the Planning Department on 10-18-2005. This and all of the other complaints filed with Placer County should have been investigated and action taken, but no action was taken to enforce the law. And it is abundantly clear from our Exhibit 9-3 why the laws have not been enforced.

How is it possible that “. . . the owner of the winery could tell anyone that this action should be on hold?” Whether or not he met with the Placer County Chief Executive and there was some agreement reached does not remove the fact that Wegener was then and continues to operate outside of the laws of both Placer County and the State of California. *See NRG Exhibit 12*

Wegner has never held a California Alcohol Beverage permit to dispense wine in glasses for people to taste, have wedding parties, and a host of other illegal activities as reported to Placer County for more than a year, yet he continues to advertise this “wine tasting” constantly as can be seen on his website and in articles and ads in local newspapers as per documents filed today with this report.

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Mr. Schulze laid out the law very correctly in the item above. We want to know when the County of Placer is going to enforce their own laws, or are they above the law?

The Neighborhood Rescue Group Association has compiled an extensive record of all of this, and as has been stated previously, the lack of time due to the County failure to deliver Staff reports in the correct legal manner and timing, prohibits us from presented a complete record of these egregious violations of the law, but again as we have done throughout this document, we reserve, we reserve the right to supplement the Administrative Record. The next exhibit further enlightens the reader as to how Placer County is proceeding in this matter, and we question the legality of these actions.

NRG Exhibit (9-2-D)

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?

The Neighborhood Rescue Group Association asks the Zoning Administrator if you are prepared to tell us who were involved in reaching this “**general agreement**” and upon what authority did they have the right to “. . . **hold in abeyance any CE actions?**”

Ag Commissioner or no, what authority does the Chief Executive Officer have to suspend legal enforcement actions required by the CURRENT CODE in 2005 and 2006? (Still in force today and certainly last summer.)

Wegner wrote a letter to the neighbors with a very damning paragraph: October 26, 2006

“Late last year one of the wineries was told they could not, since they had a “no public tasting” on their use permit. All nine wineries met with Tom Miller, head of Placer County on three occasions and he directed the Planning Dept. to allow these four events, plus the Farm and Barn Tour, which is sponsored by the county. Some wineries wish to do more than these 4-5 events. I do not. I am asking the Calif. ABC and my new use permit to state only 4-5 events a year, and only noon to 5 p.m. this is no more than I was told I could do and I want my neighbors to know I have not changed what I want to do.” (This is included in Exhibit 9-2-D)

For the Zoning Administrator please read a repeat of our earlier footnote 4, page 7.

The Brown Act - 54959. Each member of a legislative body who attends a meeting of that legislative body where action is taken in violation of any provision of this chapter, and where the

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member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this chapter, is guilty of a misdemeanor.

Since the complaint cited above and the many others as chronicled in our Exhibit (7) there have been many violations of that CODE and there are continuing violations of the California Alcohol Beverage Control laws as we point out later in this document.

Since when is it possible for any government entity to suspend the enforcement of the laws on the books at any given time? Again, we repeat earlier statements that these actions seem to constitute very serious violations of a number of laws, and in due course as we have time, we will innumerate these in detail and present documents from Placer County that substantiate our allegations.

NRG Exhibit (9-2-E)

PLACER COUNTY BUILDING DEPARTMENT
CODE ENFORCEMENT DIVISION
Bill Schuize, Chief Building Official 11424 B Avenue, Auburn, CA 95603
(530) 886-3050 FAX: (530) 886-3059 County-wide: 1-800-488-4308
www.placerca.gov

LonnaGiles 265 Welcome Lane
Newcastle, CA 95658
March 27,2006

LOCATION: 7055 Ridge Rd. APN: 031 161 028
REGARDING: PESCATORE WINERY - MINOR USE PERMIT #2511

Dear Mrs. Giles,

This office has received your renewed complaint and documentation of March 22, 2006. The reason no action has taken place at this time is because several months ago, the vineyard/winery owners with concurrence of the Agricultural Commissioner, came forward with recommendation to amend the current Code that regulates their uses.

At this time the proposed changes are still under review by the County with the Planning Department as the lead agency. Therefore our Code Enforcement Division has been requested to suspend any action at this time. It is anticipated that there will be some movement on this issue in the near future and we will be better able to provide you with information regarding the direction the County will take, enforcement action or proposed changes to County Code.

I realize this is an inconvenience to you and request your patience for a bit longer. Thank you for your assistance with the matter and should you have further questions you may call our Code Enforcement staff or me. Sincerely, s/s Bill Shulze Bill Schulze Chief Building Official
For the record, the Neighborhood Rescue Group Association requests that Placer County provide the full authority on how the failure to enforce the law can be justified, legally when Pescatore winery was and is operating illegally according to Placer County Codes.

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If any group was cited by Placer County Code Enforcement, could it do what the vineyard/winery owners did and petition the County for the laws to be held in abeyance for nearly two years while they sought to amend the current Code? Is this not selective enforcement of the law?

And is this not in and of itself, the breaking of the law? We read the statement: Therefore our Code Enforcement Division has been requested to suspend any action at this time.

We become very concerned about the reasons behind this push to get these winery tasting rooms into rural areas where they are a very real threat to the quality of life, the peace and tranquility of life, and perhaps even the safety of people on very small roads, a subject that was covered in considerable detail in Mr. Giles commentary on the Wegner Environmental Questionnaire.

We are asking for a legal opinion from Placer County with all necessary legal supporting documents for this action, which, to say the least, is highly irregular, and may be a lot more serious.

SPECIFIC COMPLAINT (8) Perhaps an e-mail from Mike Giles to Mike Harris, Code Enforcement officer 1-10-2007 will shed some light on how Placer County is operating in this situation. This also points out our contentions earlier in this letter that these various units simply do not know what they are doing and do not seem to have the proper documents at any given time.

Mike, I stopped by the Planning Dept this morning and asked for a copy of Dave Wegners application to modify his mup. No one could locate Daves application (code enforcement hasnt seen it, Alex Fisch hasnt seen it and Melanie doesnt know where it is). *NRG Exhibit (9-2-F)*

Since it appears Dave does not have a current locatable application on file, I hope you will proceed investigating Pescatore winery for modifying their agricultural processing building without proper permits (the upstairs is for "wine storage" only) but they have put in a kitchen, fireplace, carpeting etc.

In addition, I hope you will cite them for soliciting "wine tasting by appointment" as well as "special events" on their website. Today I submitted written complaints about the above topics but if you recall I notified Code Enforcement of the violations weeks ago therefore I am in hopes you will expedite the process.

Thanks Mike.

What this e-mail tells us is that the Planning Department is unable to produce documents when we ask for them, and when three different individuals should have had the MUP application, but did not, there is something wrong in this operation. It is not in compliance with CEQA regulations.

Unfortunately as we find out above and below, Code Enforcement simply did not have to enforce the law, a curious and awesome concept, but legally questionable. We have already made the request of Placer County to provide the legal support for these very questionable actions. We are sure that most wrongdoers would like such a ruling when they violate the codes and laws.

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SPECIFIC COMPLAINT NR: (9)

NRG Exhibit (10) E-mail from Melanie Heckel to Mike Giles Date: 12/13/2006 17:18:27 PM
You have probably heard me say this a number of times. I don't think the change in definition of Agricultural Processing has any repercussions, it is simply a clarification of our existing practices. The County already considers wineries to be Agricultural Processing, and we also consider that tasting rooms can accompany wineries. My specific responses for your questions are listed below:

This is not true for many reasons, the most important being what we expressed on the first page of this letter, repeated here: The NRG is a coalition of home owners in Placer County that have a vested interest in this application because the granting of this permit will have a deleterious impact on our quality of life. This proposed use will deny us our individual rights.

Here are some of the ways this will happen. We have already pointed out the propensity of the owner of Pescatore winery to violate the law, and until now he has been very successful at it as he continues to do it with impunity. How do we know that this will not happen in the future? The record of the Placer County Code Enforcement group until this time is rather abysmal, and it is not only our experiences and observations, but those of others in different situations.

We covered on pages 2 & 3 your “CONDITIONS OF APPROVAL - 2. The following uses and activities are specifically prohibited by this approval - “Outdoor amplified music, weddings, wine tours, wine dinners, rental hall, community center, rural recreation, or similar activities that would be contrary to the use of this facility for wine tasting and sales by appointment.”

And tucked away in the middle of that provision from the extremely tardy Staff Report are these very meaningful words -- **but may be authorized by approval of a Temporary Outdoor Event permit on a case by case basis:**”

If this Pescatore MUP is approved based on those conditions, we might just as well throw out all conditions whatsoever and let these wineries do whatever they want. This is a tremendous disservice to the NRG and individuals that support Placer Grown Agriculture. The wineries are abusing the privileges deserved by conscientious Placer Growers. Let's look at a ALL of the “prohibited activities” – Outdoor amplified music, weddings, wine tours, wine dinners, rental hall, community center, rural recreation.

All of these activities are unacceptable to the NRG, some more than others. The worst one: **Wine tours - wine dinners - weddings.** The geography of Placer County where these wineries are located is an exceptional challenge to cold sober drivers. The narrow lanes, many times private roads, the twisty roads that cover the area are not conducive to such **wine tours if it includes this so called “wine tasting” at every stop.** We believe that the health and safety of the public is put at risk each time this happens and for the County to promote such questionable activity is rather serious. The **wine dinners** are an equally dangerous activity that could jeopardize health and safety.

Outdoor amplified music – For some of the members of the NRG this is one of the most serious problems. Some are elderly people who came to this very remote area to enjoy the final days of

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their lives. Complaints have already been filed by several individuals on this issue and the point is well taken when they say the actions of the individual who does things, albeit on their own property that disturbs the normal peace and quiet of a very rural neighborhood, and thus violate the individual rights of others are wrong and when Placer County approves conditions that make it OK to violate our individual rights, it is more than wrong, it is inexcusable.

If Placer County is so interested in enlarging the agricultural base, then it ought to be more careful about the thousands of acres they have already given to development and not try to force these commercial enterprises into our rural community. To try to force these wineries into these rural areas is wrong any way you look at it.

SPECIFIC COMPLAINT (11) On this project there are two other very important elements, that we believe the County has totally ignored. Refer back to *NRG Exhibit (2)*, second page to the map of the area used in the lot split operation and look at the three way junction of Ridge Road, Welcome Road and the driveway to the Pescatore.

The intersection of Welcome Road and Ridge Road is a bus stop for the bus that transports children from the area, and we do not believe that this is either a healthy or morally right thing to have a wine tasting facility at that location.

Why should children be exposed to this threat and questionable influence? We have not had the time to check the legality, but that ought not be our job anyway, it should be the job of the County to take care of this properly.

The Larry Graves comments sent to Alexander Fisch were not mentioned in the Staff Report and should have been because they were very on point, accurate and included pictures. For Mr. Fisch to make the following comment indicates his disdain for the provisions of CEQA which calls for careful consideration of public input. He writes:

It is neither appropriate nor the function of staff to make a judgment as to whose version of past events is most accurate when providing the Zoning Administrator with a written analysis and recommendation on the requested modifications to this Minor Use Permit.

It is, however, the function of staff to provide equal consideration to the petitioners of the request and adjacent property owners who may be adversely impacted as a result of the petitioner's requests.

This flowery language might satisfy the Zoning Administrator, but we doubt that it will satisfy the requirements of CEQA on public participation. For instance:

15131. Economic and Social Effects

Despite the implication of these sections, CEQA does not focus exclusively on physical changes, and it is not exclusively physical in concern. For example, in Section 21083(c), CEQA requires an agency to determine that a project may have a significant effect on the environment if it will cause

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substantial adverse effects on human beings, either directly or indirectly. This section was added to CEQA by the same bill in 1972 (AB 889, Chapter 1154 of the Statutes of 1972) that added the definition of the term "environment" and the term "project".

Discussion: This section is necessary because there has been confusion over the authority of a Lead Agency to include economic and social information in an EIR. This section resolves the controversy by providing the authority with the rationale for including the information.

Notice the words: **CEQA requires an agency to determine that a project may have a significant effect on the environment if it will cause substantial adverse effects on human beings, either directly or indirectly.**

Mr. Fisch's words: It is neither appropriate nor the function of staff to make a judgment as to whose version of past events is most accurate when providing the Zoning Administrator with a written analysis and recommendation on the requested modifications to this Minor Use Permit.

ARE totally wrong according to Guidelines 15131. His Staff Report does not deal with the materials sent to him by the NRG and other landowners in that area. This is still another reason to send this project back to Planning with a firm deadline when it comes back correcting all the flaws we have and will point out.

Show us where the County considerations deal with the “. . . significant effect on the environment if it will cause substantial adverse effects on human beings, either directly or indirectly.”

This is a battle that has been fought more than once in Placer County, and the County has lost again and again on this issue when it gets tested in the courts. Do we have to go that route again?

SPECIFIC COMPLAINT NR: (12)

Our next exhibit, Nr. 11 deals with a matter that we have not been able to see anywhere in the County paper work that this has been handled, but it is a very serious item, the failure to get staff reports to the public in a timely manner. We just learned that Mike Giles was sent an e-mail to his home address last night (2-27-07) with the Engineering & Surveying report, which is again, a serious problem for the NRG. It takes time to go through these reports especially for those of us who are unfamiliar with all this language. Here is what Mr. Giles wrote to the Engineering Department.

Sharon, I was disappointed to find from our conversation this evening that you did not know Welcome Rd is a school bus stop. In addition, I will contact Melanie Heckel and find out why you did not get a copy of my supplement to Dave Wegners Environmental Questionnaire where I detailed all the misinformation in the questionnaire. Frankly, I think you should have that information before making recommendations on this project but we are clearly out of time.

Have a Good Day.

This only reinforces what we wrote in the section above.

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NRG Exhibit (11) E-mail

From: “Dave Ebert” <debert@penryrfire.org> Wednesday, January 31, 2007 4:30 PM
To: <cdraacsplacer.ca.gov>
Cc: <Bob. Eicholtz@fire.ca.gov>
Subject: Pescatore Winery (PMPM T20060909), Initial Review

ATTN: Gina Langford and Alex Fisch

Regarding the above listed project, the Newcastle Fire Protection District has concerns regarding the access for fire protection purposes. We would like to ensure that the project is held to the parcel map standards regarding roadway width of 20', with the approach gate being at least 2' wider than the road and sufficient room provided for fire apparatus turn-around, as well as egress for customers of the wine tasting events. The current roadway should be widened and the current road covering is not sufficient to sustain all weather travel of apparatus exceeding 40,000 lbs.

Dave Ebe Chief - Penryn Fire Protection District - Newcastle Fire Protect/on District

This is a very important item and should be part of the conditions with a provision that the MUP will not be issued until this roadway is widened and properly surfaced to meet these fire protection standards. We have taken one paragraph from the Engineering report:

4. Construct an all-weather surface for the on-site parking and 20'-wide access road capable of supporting a 40,000-pound vehicle. Minimum recommended surfacing is 6" aggregate base on 90% compacted soil.

We are not satisfied with the language of this condition, and ask if this was submitted to Chief Dave Ebert for his approval prior to being written in as a condition. If it has not, it should have been and it should be signed off by Chief Ebert since he originated this requirement.

This facility does increase the fire danger in this area, which is also a grave concern for the Association. Once again the residents of the area are asked to make sacrifices to help a private businessman carry forward a business that ought not to be in this rural area.

You read the statement from Captain Giles concerning this Engineering report and the serious problems of that Department because it did not have copies of very vital data and information provide long ago to the Planning Department. Again, this points out fundamental weaknesses in the Planning Department that could very well be detrimental to the public in general and specifically to the Association.

SPECIFIC COMPLAINT NR: (13)

NRG Exhibit (12) - Set of documents on the California Department of Alcoholic Beverage Control issues.

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Lack of time makes it difficult to give an adequate treatment to these documents, but these and others have already been introduced into the Administrative Record by Larry Graves, and the NRG all documents submitted by Graves by reference.

The lead document is a PETITION FOR CONDITIONAL LICENSE by David Clarence and Pauline Mary Wegner on the 8th of March 2001 they ask for a conditional license with 5 points, one of them:

Nr. 1 states: **There shall be no on-site wine tasting room incorporated on the property.**

We have already presented ample evidence that this provision has been violated many times, even the buildings and facilities that have been constructed are in violation of this provision.

This alone ought to have been sufficient reason for the Placer County Code Enforcement Agency to close down this operation, which as you know from reading this document was not done under the most curious and questionable practices of the Placer County Chief Executive Officer.

These documents should be very carefully considered by Placer County, even though they may have been considered before, there is a new element involved now, the possibility of a CEQA action as a result of the many flaws found so far in this process.

On March 5, 2001 Attorney Graves withdrew his protest against David & Patricia Wegner on the upholding of five conditions, one of them was 1. There shall be no on-site wine tasting.” This is different than that which was drafted in the Wegner Petition for Conditional License where condition Nr. 1 was:

There shall be no on-site wine tasting room incorporated on the property.

No doubt Mr. Graves regrets his action because there has been a constant violation of this and other laws and codes, many of which we have already documented in this letter, others will follow.

Mike Giles looked into this matter last January and here is a record of that investigation:

From: Mike & Lonna Giles [mailto:doubleduck@lanset.com]
Sent: Monday, January 22, 2007 2:15 PM
To: Fuentes, Paul@ABC
Subject: abc violations

Mr. Fuentes, I spoke with Maryanne Gilchrist today and she indicated you will be handling the investigation of Pescatore Winery continuing to violate their ABC license conditions. In December, 2006 I filed a complaint about Pescatore Winery soliciting for public wine tasting on their website (Pescatorewines.com). On Jan. 12, 2007

I notified Maryanne that Pescatore continues to violate their ABC conditions even during their 10 day suspension. On Jan. 11, 2007 Mr Wegner again had his “wine tasting” sign placed adjacent to Ridge Road. Both my neighbor Larry Graves and my wife can testify to the presence of the sign and I can send you a copy of his website soliciting wine tasting.

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Maryanne indicated you would likely send investigators out to see if the wine tasting sign is out. Since Mr Wegner places his sign along Ridge Rd intermittently it is unlikely your investigator will see it on any particular day. I recommend you go to Pescatorewines.com to see the solicitations. I would think that his website solicitations plus testimony by my wife and neighbor would be sufficient evidence. Please reply.

Fuentes, Paul@ABC wrote:

Mr. & Mrs. Giles, I am in receipt of your email and have spoken to Maryanne regarding your concerns. Upon reviewing the file, it looks like a complaint was taken last fall regarding the location allowing wine tasting in violation of their conditional ABC license. The actual conditions states in part, "There shall be no wine tasting room incorporated on the premises." Some time after that, the Department filed an accusation against the licensee. As you know, the result of the accusation resulted in a 10 day liquor license suspension beginning on January 10th and ending on January 20th.

Your concerns listed below state that the location is still advertising wine tasting and that they in fact were advertising the wine tasting during their suspension time. There is currently no condition on the ABC license that states the location can not advertise wine tasting upon the premises. The fact that the location is advertising wine tasting is not a violation of their ABC license.

What would constitute a violation of their ABC license; would be if the location is still incorporating a wine tasting upon the premises.

Hope this information help. Please feel free to give me a call if you have any further questions or concerns.

Paul A. Fuentes Supervising Investigator Sacramento District Office
3321 Power Inn. Rd. Ste. 230 Sacramento, Ca 95826 (916) 227-2002 Fax (916) 227-2745

As we contended previously in this document -- Mr. Wegner has never had and still does not have an ABC License to have "... **wine tasting on the premises.**"

It is a mystery why this issue escapes everyone who has legal responsibility in this area. Mr. Giles had these comments on this exchange:

Mr Fuentes is saying Wegners ABC license says "There shall be no on-site wine tasting room incorporated on the property". I see this language on his Petition For Conditional License. This is strange since Larry Graves only withdrew his protest to Wegners ABC license on the condition that Wegner not have any wine tasting at the facility.

Interestingly, ABC investigator Diana Fouts reports in her March 2, 2001 letter to Larry Graves that one of the conditions on Wegners ABC license is "There shall be no on-site wine tasting".

In view of all of this, it seems strange that Placer County would be doing everything they can to help this individual when we have been able to show both from Placer County Code and ABC

***Neighborhood Rescue Group Association – Comments – Call for Denial or Continuation
PMPMT2006O9O9, Pescatore Winery/Dave Wegner - Minor Use Permit Modification to
Modify Use Permit to Allow Wine Tasting on “By Appointment Basis” - 3-1-07 - 21 of 24***

License Laws that Mr. Wegner has been violating the law for several years and continues to do so with impunity.

How can Placer County go forward with this application in view of the evidence already introduced into the record on the repeated violations of the law by the Wegners. However, there is more.

The very late Staff Report has this statement in the recommendation:

SPECIFIC COMPLAINT (14)

NRG Exhibit (13) – From the Staff Report of 2-27-07

Staff has concluded that if operated within the limitations described above, wine tasting by appointment would be consistent with the rural residential character of the surrounding neighborhood and that wine tasting would not unduly disrupt, inconvenience, or jeopardize the safety or peace of adjacent property owners.

Not only do we disagree with the statement that this is . . . consistent with the rural residential character of the surrounding neighborhood --but we intend to show that this is far from the truth and that this project will have a very serious impact and will disrupt, inconvenience and jeopardize the safety and peace of adjacent property owners.

Earlier we commented on Alex Fisch's seeming lack of consideration of the neighborhood problems created by this project. Is he one of the people who did not get the report from Mr. Giles on the Environmental Questionnaire of January 4, 2007, *NRG Exhibit (4)*. On 1-23-07 Mr. Giles filed his comments with the County. *NRG Exhibit (5)*

The NRG is deeply disturbed by this whole process. In our **SPECIFIC COMPLAINT (5)** we note that Melanie Hickie claims on **Thu. 1 Feb 2007** that the project category “. . .falls within the **Categorical Exemption Class 1, Existing Facilities.**”

Mr. Fisch offers considerable light in what he called “. . . a very muddy and confusing review process.”

Later he writes: Further complicating the issue, the proposed overflow parking area would need to be encumbered by a parking easement.

And then he tells Mr. Wegner: The County is absolutely interested in seeing you and other wineries succeed, and I am committed to helping you get through our regulatory process... that is my job.

Then he writes in the Staff Report: It is neither appropriate nor the function of staff to make a judgment as to whose version of past events is most accurate when providing the Zoning Administrator with a written analysis and recommendation on the requested modifications to this Minor Use Permit.

***Neighborhood Rescue Group Association – Comments – Call for Denial or Continuation
PMPMT2006O9O9, Pescatore Winery/Dave Wegner - Minor Use Permit Modification to
Modify Use Permit to Allow Wine Tasting on “By Appointment Basis” - 3-1-07 - 22 of 24***

It is, however, the function of staff to provide equal consideration to the petitioners of the request and adjacent property owners who may be adversely impacted as a result of the petitioner's requests.

Where in all of this are any of the comments listed below from the Giles 1-23-07 filing with the Planning Department on the Wegner Questionnaire? The complete Giles response document already in this record is Exhibit 5.

Here are very pertinent paragraphs in direct answer to the Staff Report to be considered today where Mr. Fisch describes the project as -- consistent with the rural residential character of the surrounding neighborhood.

XV. Social Impact

This project will increase, noise, traffic and dust in this quiet neighborhood. There were 4 noise complaints filed against this facility in 2006. Noise from this facility has already disrupted livestock and residents located adjacent to the facility.

XVI. Transportation/Circulation

Ridge Rd. serves countless bicyclists on weekends while Welcome Rd. is a small, private, chip and seal road which already serves 13 residents.

Located at the juncture of Ridge Rd and Welcome is a bus stop that serves Newcastle Elementary and mailboxes that serve all the local residents. Any vehicle driving to the winery has to pass directly past the bus stop as well as the mailboxes.

The entrance to Ridge Rd from Welcome Rd has poor visibility and a steep embankment on the west side. Residents driving out Welcome Rd have already had close encounters with vehicles turning from Ridge Rd onto Welcome Rd.

The increased traffic from this project poses a threat to both local residents and the public. Headlights from vehicles leaving the winery pose a nuisance as they shine directly into the windows of the Jordan family located across from the winery.

Vehicles headed to the winery often pass the facility and drive up the driveway of local resident Larry Graves.

Applicant wants to sell 40 cases/480 bottles of wine per month year round. This represents a very large increase in traffic and a correspondingly large negative impact on this neighborhood.

The number of bottles of wine sold could be much greater and so can the impact on our neighborhood.

**Neighborhood Rescue Group Association – Comments – Call for Denial or Continuation
PMPMT2006O9O9, Pescatore Winery/Dave Wegner - Minor Use Permit Modification to
Modify Use Permit to Allow Wine Tasting on “By Appointment Basis” - 3-1-07 - 23 of 24**

The NRG challenges anyone to conclude that this winery is . . . consistent with the rural residential character of the surrounding neighborhood.

Because of the hard and probably illegal stance of Melanie Heckle on not permitting Mr. Giles to attend the meetings held with the winery group, the lines are drawn more drastically than they ought to have been. The time to have worked out many of these things was over the past two years as this project was going forward. However, we do have a number of suggestions as to how this can be turned into a more acceptable project for the neighbors and still meet the needs of the proponent.

We have dozens of documents yet to be processed and entered into the record, some of them as powerful as those we submit today, all of them building the case that there is something very fishy about how all of this has come down.

Placer County must understand some very important principles based in law about the way in which they operate as shown in this very egregious case. One of the best ways to show this is to quote from the preamble of the Brown Act.

“In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies, which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.”

In dissecting these two paragraphs several things stand out: “. . . **the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business.**” This clearly enunciates the doctrine that these agencies are here to serve the public.

We ask any objective observer to review the record, look at all the different issues, and especially do not cut out the public because as has been stated earlier in this document:

“. . . the court emphasized that the public holds a "privileged position" in the CEQA process "based on a belief that citizens can make important contributions to environmental protection and on notions of democratic decision making."

Concerned Citizens of Costa Mesa, Inc. v. 32nd District Agricultural, Assoc. (1986) 42 Cal. 3d 929

Therefore, as will be stated in our public presentation, we ask that the Placer County Zoning Administrator deny the approval of PMPMT20060909, Pescatore Winery/Dave Wegner - Minor

***Neighborhood Rescue Group Association – Comments – Call for Denial or Continuation
PMPMT2006O9O9, Pescatore Winery/Dave Wegner - Minor Use Permit Modification to
Modify Use Permit to Allow Wine Tasting on “By Appointment Basis” - 3-1-07 - 24 of 24***

Use Permit Modification - To Modify Use Permit To Allow Wine Tasting on a By Appointment Basis and . . .

Send the whole process back to the Planning Department for proper processing according to all the statutes and guidelines of the California Environmental Quality Act (CEQA), the Brown and Bagley-Keen Acts and any other applicable laws, ordinances, regulations and statutes including immediate enforcement of the Placer County codes pertaining to this project as the codes apply now, not waiting for potential Zoning Text Amendments changes that may never come.

This document and the Exhibits are filed today with Placer County as part of the administrative record for this case.

The Neighborhood Rescue Group Association

March 1, 2007

CC:
CalAware
California First Amendment Association
Area Media Outlets
Area Environmental Organizations

Received 2-18-07



COUNTY OF PLACER

John Marin, Agency Director

Michael J. Johnson, AICP
Planning Director

NOTICE OF PUBLIC HEARING

THE PLANNING DEPARTMENT HAS GIVEN LEGAL NOTIFICATION OF THIS APPLICATION TO PROPERTY OWNERS WITHIN APPROXIMATELY 400 FEET OF THE BOUNDARIES OF THE SUBJECT PROPERTY

APPLICANT OR AN AUTHORIZED REPRESENTATIVE MUST BE PRESENT AT THE HEARING

SUBJECT: PMPMT20060909, PESCATORE WINERY/DAVE WEGNER

NOTICE IS HEREBY GIVEN that the Placer County Planning Department has received an application for a Minor Use Permit modification from Dave Wegner. The applicant requests to modify his use permit to allow wine tasting on a by appointment basis. The applicant also requests approval of five open house events annually, which would include four events hosted by the Placer County Grape Growers Association and the annual Farm and Barn Tour. Other requests include hosting quarterly wine pairing dinners with up to 24 people in attendance, to participate in the agricultural sign program, and request for the use of an off-site sign during open hours.

SUBJECT PROPERTY (AP# 031-161-028) comprises 15.5 acres, is zoned F-B-X-4.6 ac. min. (Farm combining Building Site Size of 4.6 acres minimum), and is located at 7055 Ridge Road in the Newcastle area.

NOTICE IS FURTHER GIVEN that the Zoning Administrator will consider the foregoing application at a public hearing to be held in the CDRA Building, Planning Commission Hearing Room, 3091 County Center Drive, Auburn, California, 95603, on THURSDAY, March 1, 2007 at 1:45 P.M. All interested persons should attend the hearing or submit their written comments prior to the hearing. Further information may be obtained by contacting the Planning Department during normal business hours.

The applicant or representative should be present in order to present information and/or testimony relative to the application(s). The Zoning Administrator may take whatever action deemed appropriate whether or not the applicant or a representative is present.

If you challenge the proposed project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the County at, or prior to, the public hearing. Administrative remedies must be exhausted prior to action being initiated in a court of law.

STAFF PLANNER: Alex Fisch

BY: Julie A.M. Edzards
Zoning Administrator Clerk

NOTICES TO:

- Supervisor Weygandt
- Applicant
- Property Owners (15)
- COUNTY DEPARTMENTS
- Division of Environmental Health
- Department of Public Works
- Building Division
- Assessor's Office
- Parks Dept.

- CDF
- Cal-Trans
- Newcastle Fire District
- Newcastle/Ophir MAC

EXHIBIT #1 239



COUNTY OF PLACER
Community Development Resource Agency

John Marin, Agency Director

PLANNING

Michael J. Johnson, AICP
Planning Director

NOTICE OF PUBLIC HEARING

**SUBJECT: PMLD 20060616 MINOR LAND DIVISION
WEGNER**

NOTICE IS HEREBY GIVEN (to all property owners within 400' of the subject parcel's boundary lines) that Steve & Noelle Wegner Et Al (Owners) has applied to the Placer County Parcel Review Committee for approval of a Minor Land Division (Lot Split) on the following described property: Assessor Parcel Number 031-161-028 consisting of 15.5 acres, zoned F-B-X-4.6 (Farm combining a minimum building site size of 4.6 acres) to be divided into 3 parcels (5.8, 4.8, 4.6 acres each) and is located at 7055 Ridge Road in the Newcastle area.

NOTICE IS FURTHER GIVEN that the Placer County Parcel Review Committee will consider the foregoing application at a public hearing to be held on **November 1, 2006 at 10:40 A.M. in the Planning Commission Hearing Room at 3091 County Center Drive** [Located at the corner of "Richardson Drive" and "Bell Road" in the DeWitt Center, Auburn].

All interested persons should attend the hearing or submit their written comments prior to the hearing in order to secure the right of appeal. Any appeal to the decision of the PRC or conditions imposed by the PRC must be submitted to this office along with the appropriate fee within 10 calendar days after the hearing. Further information may be obtained by contacting the Planning Department during business hours between 8:00 A.M. and 5:00 P.M. at (530) 745-3000.

ADMINISTRATIVE REMEDIES MUST BE EXHAUSTED PRIOR TO ACTION BEING INITIATED IN A COURT OF LAW. IF YOU CHALLENGE THE PROPOSED PROJECT IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE COUNTY AT, OR PRIOR TO, THE PUBLIC HEARING.

GEORGE ROSASCO, Chairman/Parcel Review Committee

BY: Gina Fleming

MAILED ON OR BEFORE: 10/20/06

NOTICES TO:

Owner/Applicant/Engineer
Property Owners (4)
Agricultural Commissioner
Assessor's Office - Building Permits Clerk
Building Department
Sheriff's Office
Office of Education
Supervisor Holmes
Commissioner Forman
Coltrane

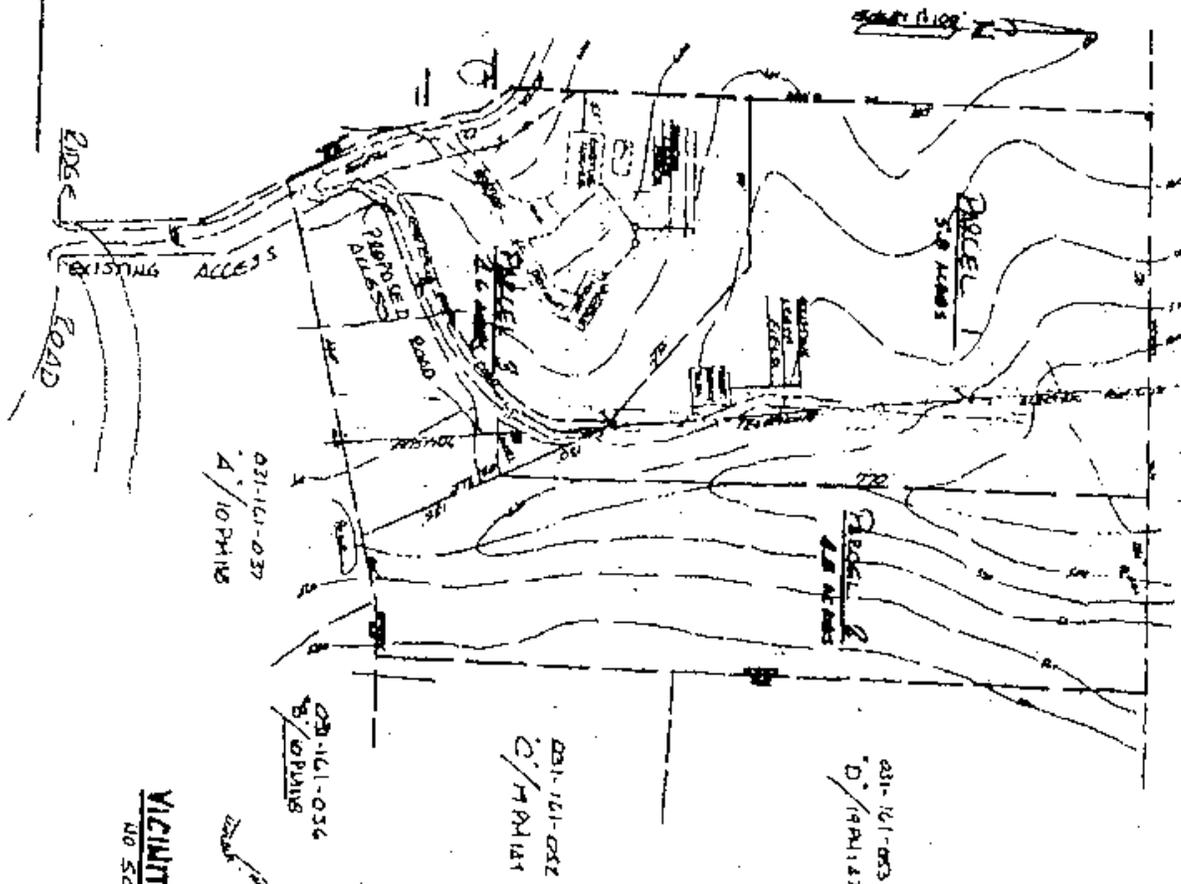
Newcastle Fire District
Newcastle/Ophir MAC
Nevada Irrigation District
Penryn Fire District

340

PLACER COUNTY
DATE RECEIVED

AUG 09 2006

PARCEL REVIEW
COMMITTEE



VICINITY MAP
NO SCALE



SITE

LEGEND

Change Intell. - 2012

031-161-032
C/H/MIAT

031-161-036
B/C/PLANS

031-161-053
D/H/MIAT

TENTATIVE PARCEL MAP
PARCEL "B" of 18 Parcels Map 36
BEING A PORTION OF THE NORTH WEST QUARTER
SECTION 14, TOWNSHIP 12 NORTH, RANGE 7 EAST, AND
A PORTION OF PLACER COUNTY, CALIFORNIA

JULY 2006

SURVEYOR
GERALD F. DING - LAND SURVEYOR
LOOMIS, CA 95650

OWNER
STEVE WEGNER

7055 RIDGE ROAD, NEW CASTLE, CA 95658

ASSESSOR'S PARCEL NUMBER: 031-161-028

ZONING: ARB 4.6 ACRES

NUMBER OF LOTS: 3

AREA: 15.5 ACRES

USES: RESIDENCE AND AGRICULTURE

EXISTING GENERAL PLAN: F-B-X

SCHOOL DISTRICT: PERRYN-LOOMIS ELEMENTARY
PLACER HIGH SCHOOL DISTRICT

SOURCE OF WATER: PRIVATE

FIRE DISTRICT: CDF

SANITATION FACILITIES: PRIVATE

DRAINAGE FACILITIES: COUNTY OF PLACER

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Subject: Re: definition

From: "Melanie Heckel" <mheckel@placer.ca.gov>

Date: Wed, 13 Dec 2006 17:18:27 -0800

To: "Mike Giles" <doubleduck@lanset.com>

CC: "Michael Johnson" <MJohnson.PO07.PLACERGW@placer.ca.gov>

You have probably heard me say this a number of times. I don't think the change in definition of Agricultural Processing has any repercussions, it is simply a clarification of our existing practices. The County already considers wineries to be Agricultural Processing, and we also consider that tasting rooms can accompany wineries. My specific responses for your questions are listed below:

|| | Mike & Lonna Giles <doubleduck@lanset.com> 12/7/2006 1:56 PM >>>

Melanie, I have been asked numerous times what will be the repercussions if the definition of Agricultural Processing in the County ordinance is

changed to include wineries with ancillary tasting rooms. If the definition is changed: 1) Will wineries be allowed to have public and or private wine tasting - Response: yes, such uses could be allowed, but this is already the case. Mt. Vernon Winery is an example. 2) Will wineries be allowed to have other events (dinners, parties, gatherings) for individuals other than family and friends. Response: Wineries, as well as other property owners, sometimes wish to gain approval to have weddings, parties, etc. This falls under the zoning ordinance definition of community center. These types of activities are allowed with an MUP in the Farm and Residential Agricultural (and a few other) zoning districts. The question of winery related special dinners is something we will have to evaluate, as we seek to gain compliance of the wineries and determine what they can and can't do. I don't see anything in the zoning ordinance that envisions winery dinners. 3) Will wineries be allowed to advertise for these types of events. Response: They will be able to advertise whatever activities are approved through individual use permits. 4) Will MOP's or other permits be required before a winery could conduct any of the activities I have listed. Response: Yes. Please research this for me and let me know what you find out.

EXHIBIT #2

Handwritten initials

Alexander Fisch

From: Alexander Fisch
Sent: Thursday, February 08, 2007 3:39 PM
To: Sharon Boswell
Subject: RE: Pescatore Winery - PMPM 20060909

It has been scheduled for March 1st.

Alex

(530)745-3081

From: Sharon Boswell
Sent: Thursday, February 08, 2007 2:55 PM
To: Alexander Fisch
Subject: RE: Pescatore Winery - PMPM 20060909

Alex -

Has this item been placed on an agenda? I am trying to determine when COAs are due-

Thanks,

Sharon

From: Alexander Fisch
Sent: Wednesday, February 07, 2007 11:19 AM
To: Laura Mattson
Cc: Sharon Boswell; Melanie Heckel; George Rosasco
Subject: Pescatore Winery - PMPM 20060909

Laura,

After a very muddy and confusing review process, Sharon and I have determined that Dave's request to have wine tour and other open house events cannot be supported with this application. His request cannot be supported for several reasons, but namely, the approved MLD for a three way split of the property would place his overflow parking on a separate parcel. In fact, from our best assessments, it appears that it would be divided between two parcels, neither of which contains the winery. As he is currently making improvements to satisfy the conditions of the MLD, I see no reason why it will not be vested. Further complicating the issue, the proposed overflow parking area would need to be encumbered by a parking easement. That easement area would also contain the driveway serving one of the parcels, thus requiring an easement within an easement. Sharon and I spent some time trying to tease these issues apart, but could not for the simple fact that they are inseparable. It does not appear that there is another location anywhere on the property that would reasonably accommodate overflow parking without significant grading work, and that is not part of this review.

Ultimately, Sharon and I came to the conclusion (and I think you did too) that he is simply trying to do too much with the property, especially considering the limits of its terrain, its existing development features, and additional single-family residences that will ultimately be constructed. After spending much time considering how this all could affect the surrounding neighborhood, I have also come to the conclusion that the potential for neighborhood nuisance and hazards associated with the wine tours is considerable.

After speaking with you about his request to have catered wine dinners up to four times per year with a limited number of people (24 is what he wrote in his description to me) and your determination that EH does not object so long as food is not prepared on-site, I think we should support this request. Conditions will need to be crafted to

2/14/2007

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EXHIBIT #3

insure that noise from guests does not result in a neighborhood nuisance. Things I think we should consider for those conditions are which nights of the week are appropriate, hours, and perhaps that dining would be required to take place indoors. I will further condition that any cooking facilities, gas lines, or 220 outlets currently located within the kitchen area are removed as part of his Building Permit. I think we can make a reasonable determination that existing on-site parking (five spaces) is adequate to accommodate this proposed use. Sharon will be conditioning that site distance be improved on the corner of the driveway serving the winery. This should improve parking access as well.

The DRC will need to have addendum conditions prepared in the event that the Zoning Administrator wishes to approve his request. I would appreciate it if each of the DRC members would prepare conditions for the request without an approval for open house events, and to also provide me with an addendum set of conditions addressing any additional improvements or requirements that will have to be met for the additional activities. This will help me ensure that all areas are covered and that no condition conflicts arise. Thank you all for your assistance. Call me if we need to discuss any of this further.

Alex

Alexander Fisch
Associate Planner
County of Placer
3091 County Center Drive
Auburn, CA 95603
Office: (530)745-3081
Fax: (530)745-3080



COUNTY OF PLACER
Community Development Resource Agency

John Marin, Agency Director

**ENVIRONMENTAL
COORDINATION
SERVICES**

Gina Langford, Coordinator

Date Received	Filing Fee	Check No.	Receipt No.
1/4/07	\$ 120 —	# 651	# 07-35067

RECEIVED

ENVIRONMENTAL QUESTIONNAIRE

JAN 11 2007

ENVIRONMENTAL COORDINATION SERVICES

Answer all questions that are applicable.

Please note: If you are applying for a Conditional Use Permit, Subdivision over 4 lots, General Plan amendment, Specific Plan and/or Rezoning, you must schedule a pre-development meeting before this Environmental Questionnaire can be accepted. Please contact the Planning Department at 530-745-3000 for scheduling.

I. GENERAL

- Project name (same as on IPA) Pescadero Winery MUP Modification
Project site area 15.5 acres, or ✓ square feet
General Plan/Community Plan P.C.C.P.
Land use description Farm - Rural Residential (1000 sq ft)
Zoning Farm F-B-X-4.6 ac min
- Project description in detail, including the number of units or gross floor area proposed, site area in acres/square feet (PLN)
Modify MUP to permit tastings at Winery & allow 5 weekends of open house events.
- Describe existing uses and facilities onsite (buildings, wells, septic systems, parking, etc) 1200 sq. ft Winery
1200 sq. ft tasting / ag 2nd fl. 2 homes, Well, parking for 25 cars
- Is adjacent property in common ownership? yes no
If yes, indicate acreage _____ and Assessor's Parcel Number(s) _____
- Indicate all historic uses of the property to its first known use and show areas of such use on site plan (i.e. animal enclosures, livestock dipping areas, carcass burial locations, chemical mixing structures, fuel tanks, crop areas, mining shafts, buildings, processing areas, storage, hazardous waste, spoils piles, etc.):
a. Residential uses? yes no
If yes, describe uses: 2 homes, one a 1200 ft garage
b. Commercial agriculture uses? yes no
If yes, what types of uses have occurred? animal husbandry crops other
Describe use, era/decade, associated pesticides, herbicides, or other hazardous materials storage or use: 5 acres of grapes - roundup + insecticide sulfur spray.
c. Mining uses? yes no
If yes, describe types, features, and any related uses: _____
d. Physical hazards (i.e. mine audit, air shaft, etc)? yes no
If yes, describe hazards: _____

XVIA. CERTIFICATION

I hereby certify that the statements furnished above and in the attached exhibits present the data and information required for this initial evaluation to the best of my ability, and that the facts, statements, and information presented are true and correct to the best of my knowledge and belief.

First Name David Last Name Wiegner

Signature David Wiegner Date: 1/4/07

Work Phone (916) 663-1422 Cell Phone ()

Email Address dpwiegner@mcw.com

01-23-07

To Whom It May Concern:

I have reviewed the Environmental Questionnaire submitted to your office from Maywan Krach of Placer County for David Wegner (Pescatore Winery). Your comments on the questionnaire are due to the County by February 1, 2007. I live next to Pescatore Winery and I am familiar with the proposed MUP Modification and wish to give you more accurate information about this project. You should be aware that in addition to the project description listed on the questionnaire, the applicant is also requesting to amend the existing MUP to include "additional activities associated with the operation of a tasting room". Such activities were not clarified in the application and are therefore unknown. I will address issues as they appear on the Environmental Questionnaire.

II. General

No. 7 Yes, the project may result in indirect discharge of sediment into a stream or pond located on the property. Crude grading of roads and parking areas along with compaction of soil has left areas above the stream and riparian habitat devoid of vegetation and vulnerable to runoff.

III. Drainage, Hydrology and Water Quality

No.1 Yes. There is a pond adjacent to the property boundary in addition to a small pond and stream on the property. The stream is a tributary to Georges Ravine (designated Salmon Habitat)

No.2 Yes. Water may be diverted into this body of water.

No.3 There is a significant amount of concrete and asphalt surface in addition to graded, compacted dirt roads and parking areas that run perpendicular and parallel with the riparian habitat.

No.5 Yes. Water from the project can run-off into the watershed drainage. The amount of crude grading and compacted soil devoid of vegetation greatly inhibits the ability of the soil to absorb water.

No.12 Yes. On-site drainage patterns have already been modified and if this project is approved will further compact soil and further modify drainage patterns.

IV. Vegetation and Wildlife

A biological survey would be appropriate considering the projects location and potential impact on riparian habitat and consequently Georges Ravine (Salmon habitat)

V. Fire Protection

Project has inadequate access for Fire Equipment from a paved surface. (greater than 150 ft)

Project has inadequate access to emergency water sources as pond is not accessible.

Project has inadequate, narrow, single lane, gravel road to Commercial structure.

Access to nearest through road should be measured for accuracy.

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EXHIBIT #5

VI. Noise

Facility had 4 noise complaints filed with Sheriffs Office in 2006.

Facility is located on hillside across from other residences. The acoustics of the area results in noise and voice easily traveling across to neighbors disrupting livestock and residents. Applicant is proposing a "picnic area" as a "public recreation" area (see XIV No.3) which is not compatible with adjacent land use.

VII. Air Quality

No.5 There has already been clearing of vegetation for the project.

XI. Sewage

The septic field for the Commercial building was to remain undisturbed but has been compromised by vineyard and/or gravel roadway.

The septic field is located uphill and relatively close to 4 domestic wells, riparian habitat and a stream.

The project would significantly increase wastewater due to the impact of members of the public using the facility bathroom, kitchen etc. Applicant hopes to attract enough traffic to sell 40 cases/480 bottles of wine per month year round. Applicant claims to have parking spaces for 25 vehicles.

During the wettest time of year groundwater is only a few feet below the surface of the ground in the riparian habitat.

XII. Hazardous Materials

Facility stores and uses Round Up Herbicide and Sulfur Spray. Light wind can cause Herbicide to drift into ponds and stream.

Gravel parking area (for 25 vehicles) and road is located on border of riparian habitat.

These vehicles will undoubtedly leak oils, antifreeze, gasoline etc that will concentrate in the soil. Crude grading and compacted soil can cause the runoff of these contaminants into the riparian habitat and stream that supply 4 neighborhood domestic wells and flow into Georges Ravine (Salmon habitat).

It is reasonable to believe pesticide will be needed intermittently and poses further threat.

XV. Social Impact

This project will increase, noise, traffic and dust in this quiet neighborhood. There were 4 noise complaints filed against this facility in 2006. Noise from this facility has already disrupted livestock and residents located adjacent to the facility.

XVI. Transportation/Circulation

Ridge Rd. serves countless bicyclists on weekends while Welcome Rd. is a small, private, chip and seal road which already serves 13 residents.

Located at the juncture of Ridge Rd and Welcome is a bus stop that serves Newcastle Elementary and mailboxes that serve all the local residents. Any vehicle driving to the winery has to pass directly past the bus stop as well as the mailboxes.

The entrance to Ridge Rd from Welcome Rd has poor visibility and a steep embankment on the west side. Residents driving out Welcome Rd have already had close encounters with vehicles turning from Ridge Rd onto Welcome Rd.

The increased traffic from this project poses a threat to both local residents and the public.

Headlights from vehicles leaving the winery pose a nuisance as they shine directly into the windows of the Jordan family located across from the winery.

Vehicles headed to the winery often pass the facility and drive up the driveway of local resident Larry Graves.

Applicant is not part of a road maintenance agreement although it is required by his use permit.

Applicant wants to sell 40 cases/480 bottles of wine per month year round. This represents a very large increase in traffic and a correspondingly large negative impact on this neighborhood. The number of bottles of wine sold could be much greater and so can the impact on our neighborhood.

If you have any questions you may contact me.

Mike Giles

916 663-4108

doubleduck@lanset.com

RE: faulty environmental questionnaire

Subject: RE: faulty environmental questionnaire

From: "Melanie Heckel" <MHeckel@placer.ca.gov>

Date: Thu, 1 Feb 2007 17:05:38 -0800

To: "Mike Giles" <doubleduck@lanset.com>, <glangford@placer.ca.gov>, "John Marin" <JMarin@placer.ca.gov>, "Maywan Krach" <MKrach@placer.ca.gov>, "Michael Johnson" <MJohnson@placer.ca.gov>, "Alexander Fisch" <AFisch@placer.ca.gov>

Mike-

Gina Langford asked me to respond to your two e-mails regarding the Environmental Questionnaire for the Pescatore Winery. By the way, I did not receive your original e-mail on January 29, as we have been experiencing e-mail failures due to the on-going conversion from Groupwise to Microsoft Outlook. In your two e-mails, you requested that the Environmental Questionnaire prepared by the applicant be modified according to your suggestions. For your information, the County has now determined that environmental review is not necessary due to the limited scope of the use permit proposal and the fact that the facilities are existing. Therefore, we have determined that the MUP request to allow tasting by appointment only and five industry week-end events at the existing facility falls within Categorical Exemption, Class 1, Existing Facilities. Nevertheless, we will forward your comments to all County staff who are evaluating this project so they can take your concerns into account in the context of reviewing and conditioning the Minor Use Permit. Melanie Heckel

-----Original Message-----

From: Mike Giles [mailto:doubleduck@lanset.com]

Sent: Monday, January 29, 2007 10:31 AM

To: glangford@placer.ca.gov; John Marin; Melanie Heckel; Maywan Krach

Subject: faulty environmental questionnaire

Good Day, I have reviewed the environmental questionnaire submitted by Dave Wegner for his MUP modification (Receipt No. 07-35062 I believe). I live next to Pescatore Winery and wish to make you aware that there are serious omissions and much misinformation in the questionnaire. The questionnaire should be completely filled out and the

misinformation corrected. The corrected questionnaire needs to be re-sent to all the appropriate agencies and the time for comments extended a minimum of 30 days after the agencies receive the questionnaire. Many agencies might need longer than 30 days to complete their investigation of this project and its potential impact. Please review the attached letter and reply back to me the name of the individual or individuals you feel are responsible for making sure the questionnaire is correct and for modifying the date comments are due. Lastly, I request that you send me a copy of the corrected questionnaire

as soon as it is ready for distribution. If necessary, I will come to the county to pick up a copy but I would like to be made aware of its existence as soon as possible. Thank You

EXHIBIT #6

250

For official use only:

ANIMAL CONTROL
11251 B Avenue Auburn, CA 95603
(530) 889-5500 FAX (530) 889-5538

ENVIRONMENTAL HEALTH
11454 B Avenue Auburn, CA 95603
(530) 745-2300 FAX (530) 745-2370

PUBLIC WORKS
11444 B Ave Auburn, CA 95603
(530) 889-7500 FAX (530) 889-7544

BUILDING DEPARTMENT
11424 B Avenue Auburn, CA 95603
(530) 886-3010 FAX (530) 886-3058

PLANNING / CODE ENFORCEMENT
11414 B Avenue Auburn, CA 95603
(530) 886-3000 FAX (530) 886-3080

TAHOE OFFICES P.O. Box 190
565 W Lake Blvd Tahoe City, CA 96145
(530) 581-6280 FAX (530) 581-6282

OK 10-31-05

✓ Web Rescator

5. 02.080 Baseline
17.50. 120 Home Use Criteria
17.56 300 Temp Events - map required
17.58. 1400 Viol Cards approval - map 2511

PLACER COUNTY

COMPLAINT FORM

RECEIVED
OCT 18 2005

Your Name: Mike and Donna Giles *Need Map 2511* PLANNING DEPT.

Mailing Address: 265 Welcome Lane
Newcastle CA 95658 Zip Code: 95658

Telephone: Day: (916) 463 4108 Other: (916) 838 3340 cell#

Your Signature: Donna Giles Date: 10-18-05

NOTE: Due to legal requirements, only written and signed complaints can be investigated. Complaints will remain confidential unless legal action is taken that may require the complainant to be specifically identified.

This report will assist the County Departments in investigating your complaint. Complete and accurate information with photographs and/or additional documentation will assist in expediting this review. Complaints regarding activities/uses involving potential health or safety hazards will be given priority. All other complaints will be investigated in sequential order as they are received.

Type of Complaint: Operating a winery tasting room at this address - there are often signs out on Ridge Rd advertising this and also signs on Hwy 193 & Gold Hill Rd. These signs are portable and are not out every day. They are also operating events, wedding receptions out of this location. I don't think they have adequate parking as they had a wedding reception on Oct 8 and parking spilled out onto Ridge Rd.
(Additional information with a directional map may be included on the back of this form.)

ASSESSOR'S PARCEL NUMBER: 031 H01 028

Address of Violation: 7055 Ridge Rd Newcastle

Property Owner's Name & Mailing Address: Dave Weigner - 7055 Ridge Rd Newcastle

Operating Winery at above address

Property Owner's Telephone: Home: () Business: ()

Tenant's Name & Mailing Address: _____

Tenant's Telephone: Home: () Business: ()

If you have questions regarding this process or the status of this complaint please contact the Placer County Code Enforcement Division in your area.
"THIS FORM IS NOT A PUBLIC RECORD"

EXHIBIT # 751

and down Welcome Lane, which is a small, private, 1 lane road. On Oct 8th there apparently was a D.J. there for the wedding reception. The music was extremely loud, with people hooting and hollering. They did have it turned down by 10pm.

There was a County hearing several years ago when these people started to build the processing building. At that time they said there would be no wine tasting, no events, and there should be no impact on the neighbors. These people are actively seeking event type business and advertising on their web site @ www.rescatorewines.com (or .net).

If you look on the web site they advertise for events such as wedding receptions and corporate events. They are also advertising serving dinners one upcoming weekend in November, and also more wine tasting.

We feel that they were deliberately misleading at the original hearing and believe they do not have the proper permits to operate such a business.

Our concerns are many. The intersection of Ridge Rd, Welcome Lane and this property address driveway is a very unsafe intersection (there are also 2 other driveways at this intersection) and there is limited visibility in both directions as you attempt to turn into Ridge Rd. either way. This intersection cannot handle the ~~volume~~ ^{volume} of traffic a wine tasting/dinner business could attract. There is also the issue of adequate parking.

We also have concerns with the possible problem of their customers leaving their winery with the possibility of impaired driving due to alcohol consumption. If someone were to make a wrong turn going off of their driveway, they could drive down Welcome Lane, where there are often children playing and riding horses.

The music and noise level are a concern. It was very loud on the day of the last wedding reception. Our neighbors

227055 Ridge Rd. Newcastle, CA 95658

page 2

told us it was so loud at their property that their horses
are upset until it was turned down between 9:30 and 10:00 pm

We moved to our location to appreciate and enjoy the peace
and quiet of the country. We never believed we would have
to deal with any of these issues.

There are no personal problems with our complaint. We have
no objection ~~to~~ to these people running a small family
winery, ~~with~~ with no tasting room or events.



PLACER COUNTY
PLANNING DEPARTMENT
CODE ENFORCEMENT DIVISION

Mike Harris
Sr. Code Enforcement Officer

DeWitt Center
11414 "B" Ave.
Auburn, California 95603

Office: (530) 886-3011
FAX: (530) 886-3011
Email: mharris@placer.ca.gov

Modification Application



COUNTY OF PLACER
Community Development Resource Agency

ENVIRONMENTAL
COORDINATION
SERVICES

John Marin, Agency Director

Gina Langford, Coordinator

TO: Distribution List
DATE: January 12, 2007
FROM: Maywan Krach, Assistant Technician
SUBJECT: Pescatore Winery (PMPM T20060909), initial review

The Placer County Community Development Resource Agency is the Lead Agency for the proposed project. The proposal is being forwarded to responsible and interested agencies for early consultation pursuant to Section 15063(g) of the California Environmental Quality Act (CEQA) Guidelines. The County is in the process of preparing an Initial Study to identify what significant impacts need to be analyzed in conjunction with this project.

We would appreciate your comments at the earliest possible date, but not later than **February 1, 2007**. Comments received after February 2, 2007 may not be considered pursuant to State law and local ordinance. If no comments are received, we will assume the project will have no impacts.

Distribution List:

- Planning Department, Alex Fisch
- Engineering & Surveying Department, Rick Eiri
- Engineering & Surveying Department, Wastewater, Ed Wydra
- Department of Public Works, Transportation, Andrew Gaber
- Environmental Health, Grant Miller
- Air Pollution Control District, Brent Backus
- Flood Control, Andrew Darrow
- Facility Services
- Facility Services, Parks, Vance Kimbrell
- Placer County Fire/CDF, Bob Eicholtz
- Sheriff Department, Amanda Rogers
- Agricultural Commissioner, Christine Turner
- Regional Water Quality Control Board - Central Valley Region
- State Department of Fish & Game
- CALTRANS
- Newcastle Fire District
- Newcastle/Ophir MAC
- Project file

Distractor says this project area provides recreation facilities to the community. See Environmental Questionnaire XIV #3

EXHIBIT # 8254



PLACER COUNTY PLANNING DEPARTMENT

AUBURN OFFICE
3091 County Center Drive
Auburn, CA 95603
530-745-3000/FAX 530-745-3080
Website: www.placer.ca.gov/planning

TAHOE OFFICE
565 W. Lake Blvd./P. O. Box 1909
Tahoe City CA 96145
530-581-6280/FAX 530-581-6282
E-Mail: planning@placer.ca.gov

RECEIVED
JAN 04 2007
PLANNING DEPT

INITIAL PROJECT APPLICATION

(For Office Use Only)

G.P. Designation F-B-X-4.6 Posters --- File #'s PMPMT 2006 0909
Rural Residential HDac Affordable Housing --- MUP-2511
 Applicable General Plan/Community Plan: Taxes --- Accepted by ---
Placer Co Gen Plan Tax Rate Area 051-006 Date filed 1/4/07
 Major Project: Yes --- No X Hearing Body Staff / ZA
 Pre-Development Meeting Date 12/10/06 Acceptable for EQ Filing J. Frisch per M. Heckel
PMPMT 2006 0909 Lopez OK Planner Signature

Code Violation --- TO BE COMPLETED BY THE APPLICANT --

- Project Name MUP Modification - Pescatore Winery
- Property Owner David C. Wegman
Mailing Address 7065 Ridge Rd Newcastle CA 95658
Telephone 916-663-1422 Fax 916-663-1422 E-Mail DWegman@msd.com
- Applicant David Wegman
Mailing Address 7065 Ridge Rd
Telephone Same Fax --- E-Mail ---
- Size of Property (acreage or square footage) 15.5 acres
- Assessor's Parcel Number(s) APN 031-161-028
- Project Location 7055 Ridge Rd Newcastle
CA 95658

(Be specific: cross streets, distance and direction from nearest intersection, etc.)

- 7 What actions, approvals, or permits by Placer County does the proposed project require?
- | | | |
|---|--|---|
| <input type="checkbox"/> Additional Building Site | <input type="checkbox"/> Environmental Questionnaire | <input checked="" type="checkbox"/> Minor Use Permit <u>Yield</u> |
| <input type="checkbox"/> Administrative Approval | <input type="checkbox"/> Extension of Time | <input type="checkbox"/> Project undertaken by County |
| <input type="checkbox"/> Administrative Review Permit | <input type="checkbox"/> General Plan Amendment | <input type="checkbox"/> Rezoning |
| <input type="checkbox"/> Certificate of Compliance | <input type="checkbox"/> Major Subdivision (5+ parcels) | <input type="checkbox"/> Variance |
| <input type="checkbox"/> Conditional Use Permit | <input type="checkbox"/> Minor Boundary Adjustment | <input type="checkbox"/> Other (Explain) <u>---</u> |
| <input type="checkbox"/> Design Review | <input type="checkbox"/> Minor Subdivision (4 and under parcels) | |

Does the proposed project need approval by other governmental agencies? --- Yes X No. If so, which agencies? ---

RECEIVED

JAN 11 2007

ENVIRONMENTAL COORDINATION SERVICES

255

8. Which agencies, utility companies provide the following services? This information must be ACCURATE!

Electricity PL&E Fire Protection CPF + Newcastle Sewer _____
Telephone ATTN Natural Gas _____ Water Well
High School Del Oro Elementary School Newcastle Other _____

9. Describe the project in detail so that a person unfamiliar with the project would understand the purpose, size, phasing, duration and construction activities associated with the project. In response to this question, please attach additional pages, if necessary.

Modify MUP to clarify "Easements by Appointment" + 5 open house workshops - See attached

10. I hereby authorize the above-listed applicant to make application for project approvals by Placer County, to act as my agent regarding the above-described project, and to receive all notices, correspondence, etc. from Placer County regarding this project, or

11. As owner I will be acting as applicant. In addition, as owner, I will defend, indemnify, and hold Placer County harmless from any defense costs, including attorneys' fees or other loss connected with any legal challenge, brought as a result of an approval concerning this entitlement. I also agree to execute a formal agreement to this effect on a form provided by the County and available for my inspection.

12. The signature below authorizes any member of the Placer County Development Review Committee (DRC), and other County personnel as necessary, to enter the property/structure(s) that is (are) the subject of this application.

Signature(s) of Owner(s):

Please Print

David C. Wegner

DAVID C. Wegner

If application is for a Boundary Line Adjustment, signature of both the transferring and acquiring property owners are required. Boundary Line Adjustments shall not be used to create new parcels.

Signature of Transferring Property Owner

Please Print

Signature of Acquiring Property Owner

Please Print

The Planning Department is prohibited from accepting applications on tax delinquent properties pursuant to Board of Supervisors direction.

Prior to the commencement of any grading and/or construction activities on the property in question, that are based upon the entitlements conferred by Placer County permit approval(s), the applicant should consult with the California Department of Fish & Game (DFG) to determine whether or not a Streambed Alteration Agreement [§1603, CA Fish & Game Code] is required. The applicant should also consult with the U.S. Army Corps of Engineers to determine whether or not a permit is required for these activities pursuant to Section 404 of the Clean Water Act. Fees may be required to be paid to the Department of Fish and Game for their participation in the environmental review process as required by State law. The applicant's signature on this application form signifies an acknowledgement that this statement has been read and understood.

PESCATORE VINEYARD & WINERY

Project Description:

Pescatore Vineyard & Winery is asking to modify their existing Minor Use Permit to clarify the language so that "Tasting by Appointment" is permitted and 5 weekends of "open houses" are permitted.

David C. Wegner
Owner
Pescatore Vineyard & Winery

David C. Wegner 1/4/07

Attachment

Amend existing MUP to include additional activities associated with the operation of a tasting room within the existing commercial winery building. Hours of operation to be approximately 10am to 5 pm and by prior appointment. Request for the use of an offsite sign during open hours.

Subject: Re: meeting with reps
From: Mike & Lonna Giles <doubleduck@lanset.com>
Date: Wed, 21 Feb 2007 16:03:51 -0800
To: Melanie Heckel <MHeckel@placer.ca.gov>

Thanks for the reply. Has there been any movement in my getting a copy of the "mailing list" of interested parties?

Melanie Heckel wrote:

Mike,

Your understanding is correct. We are having small "working group" meetings to address the goals of winery owners compared with County codes and standards. These meetings alone cannot result in code modifications, which can only be approved through public hearings before the Planning Commission and Board of Supervisors. So far, we are just in the early talking phases and there is no clear direction about where we are going or whether we will reach any type of consensus. These meetings are similar to meetings we frequently have with developers on individual projects to work through a variety of issues and we do not typically invite members of the public until we reach a workshop or public hearing phase. However, once I have any idea where these discussions may lead, I will convene a meeting with the interested winery neighbors. Melanie

-----Original Message-----

From: Mike & Lonna Giles [mailto:doubleduck@lanset.com] Sent: Wednesday, February 21, 2007 1:21 PM
To: Melanie Heckel
Subject: meeting with reps

Melanie, In response to my "meeting with reps" email dated 022007 you informed me that Placer County representatives are currently meeting with only small groups of Winery representatives and ideas are being proposed but no policies are being modified or changed. Therefore, after

discussion with Mike Johnson it was determined that I could not attend these meetings. If this is not your understanding of our conversation, please clarify for me your position on this issue as soon as possible.

I also wish to state my position that meetings between winery owners and

Placer County representatives are resulting in code modifications and/or

changes and therefore should be open to all interested parties such as myself.
Thanks Melanie

EXHIBIT # 92A
~~EXHIBIT # 2A~~ 259

Alexander Fisch

From: Melanie Heckel
Sent: Thursday, January 18, 2007 10:13 AM
To: Dave Wegner; Alexander Fisch
Subject: Re: Pescatore Winery Mup

Dave -

I have asked our Executive Secretary, Lisa Cary, to set up a 2-hour meeting time for me to get together with you and other winery owners, hopefully, the week after next. Once she secures the time and meeting room, I will let you know so that you can notify interested parties. I plan to invite both Bob Martino of the Building Department and Christine Turner. I don't wish to get into a dialogue with you about UBC issues, but I would draw a distinction between roadside stands for agricultural products and tasting rooms. I think that a roadside stand, is just that, generally it is a stand along the road where interested parties stop to buy seasonal products, and don't even go inside a building. I'm sure there are exceptions to that, but I think that was the general idea of the regulations. We can make this a topic of discussion for the meeting that will soon be scheduled. Melanie

>>> Alexander Fisch 1/18/2007 9:50 AM >>>
Dave,

I would strongly encourage you not to do any upgrades on the Building until we go through the process and you have an approved Building Permit; even door hardware. If you proceed without such an approval, you run the risk of purchasing and installing improvements that may not meet with UBC code. Please heed my advice and let me help you avoid the pitfalls.

As far as directives from Planning are concerned, Planning does not have authority to direct the Building Department to relieve you from UBC standards. UBC code is state law, and the County is obligated to require all newly constructed buildings and all newly permitted uses within existing buildings to meet code requirements. That being said, your building appears to more or less meet those requirements with the exception of door hardware, exit signage, and ADA accessibility which it appears can easily be retrofitted.

The County is absolutely interested in seeing you and other wineries succeed, and I am committed to helping you get through our regulatory process...that is my job. But I do not have any authority to relieve you of our requirements. The best I can offer is that I will give you the most accurate information about the process as I can.

On a side note, I have a meeting with the other departments next week to discuss the circumstances of your request as they relate to the current level of improvements on and off of your property. I will get in touch with you following that meeting to give you an update.

Alex

Alexander Fisch
Associate Planner
Placer County Planning Department
3091 County Center Drive, Auburn 95603
Phone: (530)745-3081
Fax: (530)745-3080
email: afisch@placer.ca.gov

~~EXHIBIT #2B~~
EXHIBIT #92B

>>> "Dave Wegner" <dpwegner@msn.com> 1/18/2007 9:17 AM >>>
Thanks for responding Alex. I can address the general plan points at the hearing, but think it is important that these points all support exactly what I am doing, and basically state that the County should be assisting me and promoting me, not simply evaluating me. *Alot*

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

EXHIBIT 92D

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 ?

>>> Bill Schulze 3/21/2006 8:58 AM >>>
Tom, Michael,

Michael Johnson

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.

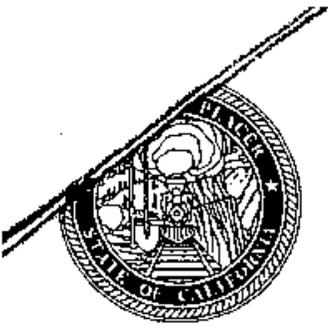
The person filing the complaint has asked Code Enforcement to take legal action as the winery is not operating to the conditions of the MUP. The violation is advertising public wine tasting which is not allowed by the MUP.

EXHIBIT 92C

Please advise,
Thanks,
Bill Schulze

CC: Michael Johnson

2/1



**PLACER COUNTY BUILDING DEPARTMENT
CODE ENFORCEMENT DIVISION**

3

Bill Schulze, Chief Building Official 11424 B Avenue, Auburn, CA 95603
(530) 886-3050 FAX: (530) 886-3059 County-wide: 1-800-488-4308
530-3010 www.placer.ca.gov

Copy from "complaints"

Lonna Giles
265 Welcome Lane
Newcastle, CA 95658

March 27, 2006

LOCATION: 7055 Ridge Rd. APN: 031 161 028
REGARDING: PESCATORE WINERY - MINOR USE PERMIT #2511

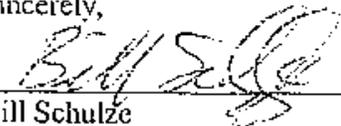
Dear Mrs. Giles,

This office has received your renewed complaint and documentation of March 22, 2006. The reason no action has taken place at this time is because several months ago, the vineyard/winery owners with concurrence of the Agricultural Commissioner, came forward with recommendation to amend the current Code that regulates their uses.

At this time the proposed changes are still under review by the County with the Planning Department as the lead agency. Therefore our Code Enforcement Division has been requested to suspend any action at this time. It is anticipated that there will be some movement on this issue in the near future and we will be better able to provide you with information regarding the direction the County will take, enforcement action or proposed changes to County Code.

I realize this is an inconvenience to you and request your patience for a bit longer. Thank you for your assistance with the matter and should you have further questions you may call our Code Enforcement staff or me.

Sincerely,



Bill Schulze
Chief Building Official

cc: Michael Johnson, Planning Director

EXHIBIT 92E

Dale Smith

From: "Mike Giles" <doubleduck@lanset.com>
To: "Mike Harris" <mharris@placer.ca.gov>
Sent: Wednesday, January 10, 2007 12:07 PM
Attach: Header.dat
Subject: violations

Mike, I stopped by the Planning Dept this morning and asked for a copy of Dave Wegners application to modify his mup. No one could locate Daves application (code enforcement hasnt seen it, Alex Fisch hasnt seen it and Melanie doesnt know where it is). Since it appears Dave does not have a current locatable application on file, I hope you will proceed investigating Pescatore winery for modifying their agricultural processing building without proper permits (the upstairs is for "wine storage" only) but they have put in a kitchen, fireplace, carpeting etc. In addition, I hope you will cite them for soliciting "wine tasting by appointment" as well as "special events" on their website. Today I submitted written complaints about the above topics but if you recall I notified Code Enforcement of the violations weeks ago therefore I am in hopes you will expedite the process. Thanks Mike.

EXHIBIT # 92F

263

2/28/2007

From: "Melanie Heckel" <mheckel@placer.ca.gov>
To: "Mike Giles" <doubleduck@lanset.com>
Date: 12/13/2006 17:18:27 PM
Subject: Re: definition

You have probably heard me say this a number of times. I don't think the change in definition of Agricultural Processing has any repercussions, it is simply a clarification of our existing practices. The County already considers wineries to be Agricultural Processing, and we also consider that tasting rooms can accompany wineries. My specific responses for your questions are listed below:

>>> Mike & Lonna Giles <doubleduck@lanset.com> 12/7/2006 1:56 PM >>>
Melanie, I have been asked numerous times what will be the repercussions if the definition of Agricultural Processing in the County ordinance is

changed to include wineries with ancillary tasting rooms. If the definition is changed: 1) Will wineries be allowed to have public and or private wine tasting - Response: yes, such uses could be allowed, but this is already the case. Mt. Vernon Winery is an example. 2) Will wineries be allowed to have other events (dinners, parties, gatherings) for individuals other than family and friends. Response: Wineries, as well as other property owners, sometimes wish to gain approval to have weddings, parties, etc. This falls under the zoning ordinance definition of community center. These types of activities are allowed with an MUP in the Farm and Residential Agricultural (and a few other) zoning districts. The question of winery related special dinners is something we will have to evaluate, as we seek to gain compliance of the wineries and determine what they can and can't do. I don't see anything in the zoning ordinance that envisions winery dinners. 3) Will wineries be allowed to advertise for these types of events. Response: They will be able to advertise whatever activities are approved through individual use permits. 4) Will MUP's or other permits be required before a winery could conduct any of the activities I have listed. Response: Yes. Please research this for me and let me know what you find out.

CC: "Michael Johnson" <MJohnson.PO07.PLACERGW@placer.ca.gov>

EXHIBIT #10 264

Dave Ebert

From: "Dave Ebert" <debert@penrynfire.org>
To: <cdraecs@placer.ca.gov>
Cc: <Bob.Eicholtz@fire.ca.gov>
Sent: Wednesday, January 31, 2007 4:30 PM
Subject: Pescatore Winery (PMPM T20060909), Initial Review

ATTN: Gina Langford and Alex Fisch

Regarding the above listed project, the Newcastle Fire Protection District has concerns regarding the access for fire protection purposes. We would like to ensure that the project is held to the parcel map standards regarding roadway width of 20', with the approach gate being at least 2' wider than the road and sufficient room provided for fire apparatus turn-around, as well as egress for customers of the wine tasting events. The current roadway should be widened and the current road covering is not sufficient to sustain all weather travel of apparatus exceeding 40,000 lbs.

*Dave Ebert, Chief
Penryn Fire Protection District
Newcastle Fire Protection District
(916) 663-3389*

EXHIBIT #11

2/5

BEFORE THE
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
OF THE STATE OF CALIFORNIA

IN THE MATTER OF THE APPLICATION OF

WEGNER, David Clarence
WEGNER, Patricia Mary
7055 Ridge Rd.
Newcastle, CA 95658

FILE 02-373346

REG.

PETITION FOR CONDITIONAL
LICENSE

For Issuance of an Winegrower License

Under the Alcoholic Beverage Control Act

WHEREAS, petitioner(s) has/have filed an application for the issuance of the above-referred-to license(s) for the above-mentioned premises; and,

WHEREAS, Lawrence Graves, David Mackenroth, and Tiana Grgurina, have protested the issuance of the applied-for license; and

WHEREAS, the protest(s) deal(s) with the proposed operation of the applied-for premise; and,

WHEREAS, the County of Placer, on March 30, 2000, approved a Minor Use Permit Number MUP-2511, limiting the petitioner's licensed operation; and,

WHEREAS, the issuance of an unrestricted license would be contrary to public welfare and morals and Section 23790 of the Business and Professions Code;

WHEREAS, the issuance of an unrestricted license would be contrary to public welfare and morals;

NOW, THEREFORE, the undersigned petitioner(s) do/does hereby petition for a conditional license as follows, to-wit:

1. There shall be no on-site wine tasting room incorporated on the property.
2. The wine making operation shall be confined to the lower floor of the structure; the upper floor shall be limited to the storage of wine and/or agricultural implements associated with the winery.
3. Wine making operations shall be conducted entirely within the winery building except for crushing process (including the separation of seeds, stems, foliage, etc.).
4. Wine production is limited to no more than 1,000 cases of wine within any twelve-month period.
5. Activities associated exclusively with the wine making operation shall be limited to daylight hours (or 7:00 a.m. to 9:00 p.m., whichever is more restrictive) on weekdays and 8:00 a.m. to 8:00 p.m. on Saturdays, Sundays and Federal Holidays.

This petition for conditional license is made pursuant to the provisions of Sections 23800 through 23805 of the Business and Professions Code and will be carried forward in any transfer at the applicant-premises.

ABC-172 (5/94)

EXHIBIT #12
Jolo

02-373546
WEGNER, David Clarence
WEGNER, Patricia Mary
Page 2

Petitioner(s) agree(s) to retain a copy of this petition on the premises at all times and will be prepared to produce it immediately upon the request of any peace officer.

The petitioner(s) understand(s) that any violation of the foregoing condition(s) shall be grounds for the suspension or revocation of the license(s).

DATED THIS 8th DAY OF March, 2001

David C. Wegner
Applicant/Petitioner

Patricia Mary Wegner
Applicant/Petitioner

RECEIVED

MAR 12 2001

Dept. of Alcoholic Beverage Control
Sacramento

267

Dale Smith

From: "Mike Giles" <doubleduck@lanset.com>
To: "Paul@ABC Fuentes" <Paul.Fuentes@abc.ca.gov>
Sent: Friday, January 26, 2007 6:35 PM
Attach: Header.dat
Subject: Re: abc violations

Mr. Fuentes, I hope you can tell me why there is not sufficient evidence to cite Pescatore winery again. We know they continue to solicit wine tasting at their facility by their website and there are several people that will testify that he continues to intermittently place his sign out to direct individuals to his facility. Might I suggest one of your investigators call the number on his website, pretend to be a member of the public, tell him you heard from a friend that Pescatore wine is very good and you would like to come by to sample their product.

Fuentes, Paul@ABC wrote:

> Mr. & Mrs. Giles, I am in receipt of your email and have spoken to
> Maryanne regarding your concerns. Upon reviewing the file, it looks
> like a complaint was taken last fall regarding the location allowing
> wine tasting in violation of their conditional ABC license. The actual
> conditions states in part, "There shall be no wine tasting room
> incorporated on the premises." Some time after that, the Department
> filed an accusation against the licensee. As you know, the result of
> the accusation resulted in a 10 day liquor license suspension beginning
> on January 10th and ending on January 20th.
>
> Your concerns listed below state that the location is still advertising
> wine tasting and that they in fact were advertising the wine tasting
> during their suspension time. There is currently no condition on the
> ABC license that states the location can not advertise wine tasting upon
> the premises. The fact that the location is advertising wine tasting is
> not a violation of their ABC license. What would constitute a violation
> of their ABC license; would be if the location is still incorporating a
> wine tasting upon the premises.
>
> Hope this information help. Please feel free to give me a call if you
> have any further questions or concerns.
>
> Paul A. Fuentes
> Supervising Investigator
> Sacramento District Office
> 3321 Power Inn. Rd. Ste. 230
> Sacramento, Ca 95826
> Phone (916) 227-2002
> Fax (916) 227-2745
>
> -----Original Message-----
> From: Mike & Lonna Giles [mailto:doubleduck@lanset.com]
> Sent: Monday, January 22, 2007 2:15 PM

3/1/2007

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> To: Fuentes, Paul@ABC
> Subject: abc violations
>
> Mr. Fuentes, I spoke with Maryanne Gilchrist today and she indicated you
>
> will be handling the investigation of Pescatore Winery continuing to
> violate their ABC license conditions. In December, 2006 I filed a
> complaint about Pescatore Winery soliciting for public wine tasting on
> their website (Pescatorewines.com). On Jan. 12, 2007 I notified
> Maryanne that Pescatore continues to violate their ABC conditions even
> during their 10 day suspension. On Jan. 11, 2007 Mr Wegner again had his
>
> "wine tasting" sign placed adjacent to Ridge Road. Both my neighbor
> Larry Graves and my wife can testify to the presence of the sign and I
> can send you a copy of his website soliciting wine tasting. Maryanne
> indicated you would likely send investigators out to see if the wine
> tasting sign is out. Since Mr Wegner places his sign along Ridge Rd
> intermittently it is unlikely your investigator will see it on any
> particular day. I recommend you go to Pescatorewines.com to see the
> solicitations. I would think that his website solicitations plus
> testimony by my wife and neighbor would be sufficient evidence. Please
> reply.
>
>

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3/1/2007

Department of Alcoholic Beverage Control
3321 Power Inn Rd., #230
Sacramento, CA 95826

I, Lawrence A. Graves, withdraw my protest against David & Patricia Wegner, at 7055 Ridge Rd., Newcastle, for a type "02" Winegrower's License, if the applicants agree to have the below conditions placed on their license.

1. There shall be no on-site wine tasting.
2. The wine making operation shall be confined to the lower floor of the structure; the upper floor shall be limited to the storage of wine and/or agricultural implements associated with the winery.
3. Wine making operations shall be conducted entirely within the winery building except for the crushing process (including the separation of seeds, stems, foliage, etc.).
4. Wine production is limited to no more than 1,000 cases of wine within any twelve-month period.
5. Activities associated exclusively with the wine making operation shall be limited to daylight hours (or 7:00 a.m. to 9:00 p.m., whichever is more restrictive) on weekdays and 8:00 a.m. to 8:00 p.m. on Saturdays, Sundays and Federal Holidays.

Lawrence A. Graves
Signature

3-5-01
Date

270

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

San Francisco District Office
 1000 Market Street, Suite 230
 San Francisco, CA 94102
 415-398-2002

*For Dave Hegney
 if he requests
 IT -
 This would
 be 2nd time I
 gave him a copy
 with no response*

March 2, 2001

Lawrence Graves
 6995 Ridge Rd.
 Newcastle, CA 95658

Re: Wegner; "02"
 Winegrower's license
 7055 Ridge Rd., Newcastle

Dear Protestant:

I am the Investigator assigned to the above mentioned application and contacting you concerning the protest you filed against the license. The Wegner's have applied to this Department for a type "02" - Winegrower License to operate a winery.

In order for the County to approve the Wegner's project, they had to meet or agree to specific requirements, which are indicating in their Use Permit. The Wegner's have also been informed about conditions on the alcoholic beverage license to coincide with their Use Permit. Specifically:

1. There shall be no on-site wine tasting.
2. The wine making operation shall be confined to the lower floor of the structure; the upper floor shall be limited to the storage of wine and/or agricultural implements associated with the winery.
3. Wine making operations shall be conducted entirely within the winery building except for crushing process (including the separation of seeds, stems, foliage, etc.).
4. Wine production is limited to no more than 1,000 cases of wine within any twelve-month period.
5. Activities associated exclusively with the wine making operation shall be limited to daylight hours (or 7:00 a.m. to 9:00 p.m., whichever is more restrictive) on weekdays and 8:00 a.m. to 8:00 p.m. on Saturdays, Sundays and Federal Holidays.

If the above conditions address your concerns, please sign and return the enclosed letter back to this Department. Violations of conditions are grounds for the Department to take disciplinary action.

271

Graves
2001

If you have any questions, please feel free to call me at (916)227-2154.

Sincerely,



Diana Fouts
Investigator

Enc.

MEMORANDUM
PLACER COUNTY
PLANNING DEPARTMENT

Hearing Date: March 1, 2007
Time: 1:45 pm

DATE: February 27, 2007

TO: Zoning Administrator

FROM: Planning Department

SUBJECT: PMPM 20060909 - Minor Use Permit Modification to allow wine tasting and wine sales by appointment in conjunction with a previously approved winery.

APPLICANT: Dave Wegner, Pescatore Winery

STAFF PLANNER: Alex Fisch

ZONING: F-B-X 4.6-Acre Minimum (Farm combining Minimum Building Site of 4.6-acres)

LOCATION: 7055 Ridge Road, Newcastle

APN: 031-161-028

REFERENCES: MUP-2511, approved for wine processing and wine storage, granted by the Zoning Administrator on March 28, 2000.

LOCATION:
Pescatore Winery is located at 7055 Ridge Road in the Newcastle/Ophir area, one-half mile northeast of the intersection of Ridge Road and Gold Hill Road.

PROPOSAL:

The applicant proposes to modify Minor Use Permit 2511 to permit wine tasting and wine sales by prior appointment only for up to 15 vehicles per week and no more than 20 people at any one time. The request includes placement of an off-site sign for the Pescatore Winery on the neighboring property to the south near the intersection of Welcome Lane and the Wegner's shared private road easement.

While the original application included requests for quarterly wine pairings dinners for up to 24 persons (i.e., to allow for dinner events that match different wines with the different meal courses) and to host five annual open house events with up to 150 guests per event/weekend, the applicant has revised his proposal to only include the request for approval of wine tasting by appointment. Issues associated with the consideration of the wine pairings dinners and the open house events are not a part of this application, but rather will be considered by staff and brought forward for a public hearing at a later date.

CEQA COMPLIANCE:

This project is categorically exempt from environmental review pursuant to provisions of Sections (15301) and (15303) of the California Environmental Quality Act Guidelines and Sections 18.36.030 and 18.36.050 of the Placer County Environmental Review Ordinance (Class 1, Existing facilities, and Class 3, New construction or conversion of small structures). The Zoning Administrator will be required to make a finding to this effect.

BACKGROUND:

History

In March 2000, Minor Use Permit 2511 for the Pescatore Winery was approved for the construction of a 2,880 square-foot agricultural building that would be used for the making and storing of wine. Production is limited to 1,000 cases annually. A four-acre vineyard had been previously established on the property and is used as the primary source of grapes for winemaking, though grapes are permitted to be imported from off-site locations so long as delivery is accomplished by single-axle vehicles only. The permit approval specified that wine tasting for the general public was prohibited (Conditions 1 and 20).

In the intervening years, the Wegners have vested the Minor Use Permit with the construction of the winemaking facilities and construction or certification of other required improvements. Since that time, the Wegners have hosted several public events on the property, including the Placer County Wine and Grape Association Wine Tour and the Farm and Barn Tour. On an ongoing basis, they have advertised and conducted wine tasting "by appointment", which they believe was permitted with the original Minor Use Permit approval. It has been stated by at least two adjacent property owners that other events have occurred on the property on a semi-regular basis, including weddings with amplified outdoor music and similar recreational functions. At least two of those neighbors have filed written complaints to the State of California Department of Alcoholic Beverage Control, the Placer County Sheriff's Department, and the Placer County Code Enforcement Division.

The frequency, nature, and accounting of events is disputed greatly between the Wegners and the property owners who have made the complaints. The Wegners have provided County staff with an explanation of the nature and justifications of many of those events, which they have stated

were family functions. Likewise, neighboring property owners have provided staff with documentation that suggests that at least some of the events have been for non-family events.

It is neither appropriate nor the function of staff to make a judgment as to whose version of past events is most accurate when providing the Zoning Administrator with a written analysis and recommendation on the requested modifications to this Minor Use Permit. It is, however, the function of staff to provide equal consideration to the petitioners of the request and adjacent property owners who may be adversely impacted as a result of the petitioner's requests.

Property Development Features and Neighborhood Characteristics

The property comprises 15.5 acres of rural residential farmland located in the southwest Ophir area. The property is accessed by a shared 50-foot private road easement that first crosses the Williams' property to the south near Ridge Road and continues northwesterly through the Wegner property to the Graves property located to the northwest. The easement shares a common encroachment onto Ridge Road with a private driveway and with Welcome Road, which serves additional residences surrounding the Wegner property to the south, east and northeast.

The Wegner property is moderate to steeply sloping with a seasonal stream and riparian ravine bisecting the easterly half. The parcel is developed with a single-family residence, a secondary dwelling unit, and the winery building and vineyards previously described. The winery building is located approximately 50 feet west of the ravine.

The property was tentatively approved for a three-way Minor Land Division on November 1, 2006. One parcel would contain the two existing residences, another the winery building, and the third is without residential or winery related improvements at this time. The two newly created parcels would be permitted rights to construct single-family housing in accordance with State law and County ordinances.

The winery building is located in the central portion of the 15.5-acre parcel, and is served by a graveled driveway that is accessed from the shared private road easement (This driveway would also serve two newly created residential parcels if the approved Tentative Map is recorded). The winery includes an oblong-shaped gravel parking area on its south side that measures approximately 46 feet by 46 feet. Approximately 100 yards to the south of this parking area is an overflow gravel parking area that measures approximately 30 feet wide by 114 feet long.

ANALYSIS:

Requested Use Permit Modifications - By Appointment Wine Tasting and Off-Site Signage

The applicant's primary request is to modify this Minor Use Permit to allow wine tasting and sales by appointment. Wine tasting is proposed to be conducted by prior appointment between the hours of 10:00 AM and 5:00 PM, without a restriction on days of the week. The proposal includes a limit of these activities to a maximum of 15 vehicles per week and a maximum of 20 guests at any one time. The applicant also proposes to erect an off-site sign for the winery that would advertise the availability of wine tasting, provide winery contact information, and to direct visitors to the winery entrance. The sign would be placed in the southwest corner of the Williams' property (APN 031-161-037), northeast of the intersection of Welcome Road and the

Wegners' shared private road easement. The sign would not be illuminated and would be limited to a maximum sign area of six square feet, as stated in a letter provided by Mr. Williams authorizing this request.

Staff has concluded that if operated within the limitations described above, wine tasting by appointment would be consistent with the rural residential character of the surrounding neighborhood and that wine tasting would not unduly disrupt, inconvenience, or jeopardize the safety or peace of adjacent property owners. Staff has also concluded that the placement of a directory sign program will help to ensure that winery guests are provided with adequate direction so that their visits do not unnecessarily disrupt adjacent property owners. At a minimum, staff has conditioned for the placement of two directory signs to be placed along the shared private road. One sign would serve to identify the location of the winery driveway, and the other would inform a visitor to turn around in the Wegner's residential driveway if they had gone too far. Each sign would be limited to a maximum sign area of two square feet. Staff has concluded that the level of business permitted by such an approval would be consistent with on-site marketing and sales activities for agricultural endeavors located within rural residential farm districts in western Placer County, and that it would be consistent with the level of on-site enterprise afforded to other agricultural producers.

Prior to vesting any right to conduct on-site wine tasting and wine sales activities, the applicant would be required to satisfy a number of permit requirements, including but not limited to final approval of all necessary Building Permits as determined by the Building Department, demonstrating to the satisfaction of staff that four graveled parking spaces and one ADA accessible parking space have been provided in conformance with Placer County Guidelines for Small Wineries, approval of all required licenses from the Department of Alcoholic Beverage Control, and implementation of a directory sign program reviewed and approved by staff.

RECOMMENDATION:

The Development Review Committee recommends **approval** of this Minor Use Permit Modification (PMPM 20060909) to allow for wine tasting and wine sales by appointment and for one off-site agricultural sign based upon the following findings. Recommended conditions of approval are attached.

FINDINGS:

CEQA

The Zoning Administrator finds that this project is categorically exempt from review under CEQA pursuant to Section 15301, Existing Facilities (Class 1) and Section 15303, New construction or conversion of small structures (Class 3) of the CEQA Guidelines (ERO Sections 18.36.030 and 18.36.050) because the conversion of the upper floor of the winery building to a wine tasting room will result in a negligible expansion of the use.

Minor Use Permit Modification - Wine Tasting by Appointment and Off-Site Signage

1. The proposed modification to allow for wine tasting and wine sales by appointment and for the placement of an off-site winery sign is consistent with all applicable provisions of the Placer County Code, Chapter 17, and any applicable provisions of other chapters of this code.

2. The proposed modification to allow for wine tasting and wine sales by appointment and for the placement of an off-site winery sign is consistent with applicable policies and requirements of the Placer County General Plan.
3. The establishment, maintenance or operation of the wine tasting and wine sales facilities will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, comfort and general welfare of people residing or working in the neighborhood of the proposed use, nor will it be detrimental or injurious to property or improvements in the neighborhood or to the general welfare of the County because no substantial increase in traffic is anticipated, nor outdoor events authorized.
4. The proposed modification to allow for wine tasting and wine sales by appointment and for the placement of an off-site winery sign will be consistent with the character of the immediate neighborhood and will not be contrary to its orderly development.
5. The proposed modification to allow for wine tasting and wine sales by appointment and for the placement of an off-site winery sign will not generate a volume of traffic beyond the design capacity of all roads providing access to the project.
6. The proposed modification to allow for wine tasting and wine sales by appointment and for the placement of an off-site winery sign will not have an adverse effect on adjacent or surrounding property owners because the limitations imposed on the operation of the facility will ensure that the peaceful character of the neighborhood is not disrupted.

CONDITIONS OF APPROVAL:

1. This Minor Use Permit Modification authorizes wine tasting and wine sales by prior appointment for the Pescatore Winery between the hours of 10:00 AM to 5:00 PM seven days per week. The winery shall not maintain regularly scheduled open hours. Wine tasting and sales shall be limited to a maximum of 15 cars per week, no more than 20 persons at any time, and shall be conducted within the upper floor of the winery building. This shall not be construed as a prohibition against guests venturing outdoors.

Public wine tasting shall not be authorized prior to completion of all conditions of approval. Breach of this condition shall be cause for the Planning Director to consider scheduling a hearing for permit revocation.

2. The following uses and activities are specifically prohibited by this approval, but may be authorized by approval of a Temporary Outdoor Event permit on a case by case basis: Outdoor amplified music, weddings, wine tours, wine dinners, rental hall, community center, rural recreation, or similar activities that would be contrary to the use of this facility for wine tasting and sales by appointment.
3. Sales of non-food boutique items clearly incidental to winery operations such as hats, shirts, aprons, and stemware bearing the winery logo are permitted during appointment hours

4. The applicant shall make application for a Building Permit to convert the main floor of the winery building for use as a wine tasting room. Permit plans shall include a three compartment sink for the washing of stemware. Plans shall show that all cooking appliances, cabinets designed to house cooking appliances, 220-volt outlets and gas lines will be removed with this permit. Completion of this condition requires permit final approval and issuance of a Certificate of Occupancy.
5. Submit to the Development Review Committee for review and approval a scaled Parking Plan demonstrating that five parking spaces will be provided in conformance with the Placer County Zoning Ordinance, Section 17.54.070 (Design and Improvement of Parking), and as specified in the Guidelines for Placer County Wineries and Small Tasting Rooms. Parking shall be located on the south side of the winery building in that generalized area that has been previously developed as parking. If the current parking area does not meet this requirement, the applicant shall be required to improve the parking area to meet these standards.
6. The applicant shall submit copies of all licenses required by the California State Department of Alcoholic Beverage Control required for on-site sales, marketing, and tasting of fermented wine products. Copies shall be submitted to the Planning Department with a reference to this file.
7. This Minor Use Permit Modification permits the placement of one off-site sign for the Pescatore Winery not to exceed a maximum sign area of six square feet and a maximum overall height of six feet. The sign shall be placed in the southwest corner of APN 031-161-037 outside of the 50-foot private road easement in a location reviewed and approved by the Development Review Committee. Sign materials, colors, design, and copy shall be reviewed and approved by the Development Review Committee. Sign copy shall be limited to the winery name, phone number, indicating that tasting is by appointment only, and directional indicators to the winery entrance such as arrows or verbiage. The sign shall not be internally or externally illuminated.
8. The applicant shall submit to the Development Review Committee for review and approval the proposed location, design, and sign copy for a directional sign program to be implemented with this permit. A minimum of two directional signs no larger than two square feet each shall be placed as follows with the following generalized text:
 - A. "Winery entrance", to be placed at the entrance of the winery driveway from the shared private road easement.
 - B. "Please turn around. You've passed the winery driveway", to be placed after the winery driveway and before the Wegner driveway to ensure that strayed winery guests do not bother the residence located at 6995 Ridge Road.
9. The applicant shall have 12 months to exercise this Minor Use Permit Modification by completing all performance based conditions. Failure to exercise condition seven for

placement of an off-site sign shall not result in a forfeiture of the entire permit modification, but would result in forfeiture of approval for the off-site sign. Unless previously exercised, this permit shall expire on March 11, 2008.

ATTACHMENTS

Conditions of approval - MUP 2511

Vicinity Map

Site Plan

PMLD 20060616 Tentative Map

Memo from the Placer County Department Engineering and Surveying

Memo from the Placer County Department of Environmental Health Services

cc: PCPM-20060356 file

MUP-2511 file

Christine Turner, Agricultural Commissioner

Sharon Boswell, Engineering and Surveying Department

Dave Wegner

Mike Giles

Laurence Graves

Michael Abbot

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2/27/07

Mr. Giles,

Attached is my staff report. Significantly, you will find that memos from the Departments of Environmental Health, and Engineering and Surveying are not attached with recommended conditions from those departments. It is only because they are not yet available to me. If you would like copies of those conditions, please contact Laura Mattson with Env. Health and Sharon Boswell with Engineering.

Sincerely,

A handwritten signature in black ink, appearing to be 'J. A. ...', written in a cursive style.