

Coalition of Affected Business Owners

Comments on Draft Events Ordinance

CABO previously submitted detailed comments to the September 2010 draft, which are included as pages 121 through 133 in the Staff Report, to which the Commissioners are respectfully referred.

We submit the following additional comments to the latest draft of the events ordinance set for hearing before the Planning Commission on March 31, 2011.

Purpose Statement Incomplete

The "Purpose" statement in any ordinance plays a vital part in how any conflict arising under the ordinance is resolved. Previous Board discussions and directions emphasized that the Board sought to balance competing interests in a way that protected both agriculture and economic interests and incorporated all relevant County policies. The proposed Purpose statement falls short of expressing these goals.

CABO suggests the following revision to the draft Purpose statement (CABO revisions in red):

The purpose of this section is to establish a set of regulations applicable to the various types of **non-winery** events held throughout the County. The Board of Supervisors, through adoption of these standards, recognizes the important role that such events play, including supporting countywide tourism, **providing a source of additional income to agriculturalists and landowners**, as an educational or recreational tool for the public, and for support of non-profit organizations. The Board also recognizes that, **even as they provide economic, educational, and recreational benefits**, events also have the potential to negatively impact surrounding residential or agricultural uses by increasing burdens to infrastructure, such as rural roads, and by adding noise or other impacts that may negatively affect our County's rural character, an essential quality upon which tourism and our economy depends. The specific purpose of this Section is to **balance these interests by setting standards for non-winery events that assure their continued viability while ensuring protection of** surrounding residential and agricultural uses.

Setback Requirements Are Unnecessary and Essentially Eliminate the Ministerial Permit Process for Many Venues

CABO's previous comments relating to Setbacks are found on pages 123 through 125 of the Staff Report, to which the Commissioners are respectfully referred. Setbacks were originally mentioned in passing by Supervisor Gibson as a way to possibly increase flexibility of the proposed ordinance's Ministerial category by allowing larger properties to host larger events. However well intentioned, as drafted, rather than increasing flexibility, the setback requirements essentially eliminate many venues from qualifying to host events pursuant to a ministerial permit.

There has been no showing of the necessity for such greater-than-existing-code setbacks, or their relevance in actually protecting neighboring uses. Rather, these setbacks will serve to undermine the ability of venues to qualify for the ministerial permit, which is not what the Board intended when it authorized a tiered permit system intended to shelter private venues that host 12 or fewer events from the burdens of the MUP process.

The Ag Department has previously agreed that up to 12 events per year of up to 150 persons would, by definition, not pose a significant impact to onsite or neighboring ag uses. Use of a property for 12 out of 365 days (4%) for events that have no permanent impact and do not entail any permanent construction or grading does not require burdensome setback requirements in addition to existing building code setbacks. The decision has been made that events of such infrequency and size do not pose a danger to either on or off site agriculture.

Event venues already will be required to adhere to noise levels, provide dust mitigation, and take other measures that specifically

target the actual impacts on neighboring agricultural and residential uses, as well as adhere to traffic, fire, and health and safety requirements. Imposing additional 200- and 300-foot setback requirements may sound “reasonable” but in fact will serve no purpose other than to eliminate a substantial number of venues from qualifying for the Ministerial Permit. Essentially no venue under approximately 10 acres could even theoretically qualify, even for a 150-guest event, and even many of the large venues simply don’t have the perfectly flat and square topography that would allow all activities and parking areas to be surrounded by a football field-sized buffer on all sides.

If the concerns are that event guests should be monitored more closely to avoid trespass or other impacts on neighbors, then surely this can be accomplished by requiring parking attendants or security in the parking areas, rather than imposing a football field between the parking lot and any boundary line.

The setback requirements also create questions that relate to the use of existing structures. If a permitted structure meets all existing building code setback requirements and is otherwise suitable for use, the additional setback requirements would nevertheless disqualify that site from the ministerial permit process.

Additionally, although CABO supports allowing some flexibility for properties that may be able to accommodate larger events, it should be remembered that the vast majority of for-profit non-ag events consist of 175 or fewer guests. CABO’s July 2009 surveys (one of landowners and one of related business owners) revealed 86 percent of “for profit” events held involved no more than 175 guests, with only a few sites reporting events up to 250. Virtually all the events larger than 250 held on private venues are nonprofit events, for which the current draft would not allow the venue owner to charge a site fee.

Furthermore, the current draft will for the first time impose a requirement on even venues that host only non-profit events to obtain either a ministerial or other permit, even though they are prohibited from charging a site fee. Imposing these additional setback requirements would simply discourage properties from hosting non-profit events.

As stated above, the determination has been made by the Board and supported by the Ag Department that up to 12 events per year of up to 150 (the standards allowed by the Ministerial Permit) by definition are felt to have no deleterious impact on both onsite and neighboring ag. The intent of creating a tiered system was to facilitate the ability of private venues who host a limited number of events annually to comply with an inexpensive ministerial process. There is no point to creating such a simplified system and then imposing setback requirements that undermine the very system created.

Use of Ag-Exempt Structures

CABO's previous comments on the issue of use of existing structures are included on page 127 of the Staff Report, to which the Commissioners are respectfully referred. As we previously stated, we have concerns that there is no realistic possibility of exemption or waiver, and also no clear and comprehensible pathway to obtaining the required permit for public occupancy, especially in the Ministerial Permit category.

We understand that this subject is challenging and will require staff and the Commission to address this issue in a way that is realistic, and that explores the feasibility of using such structures while ensuring public safety and addressing County liability issues.

Actual Numbers for Events Under Ministerial Permit

CABO suggests increasing the proposed number for attendees to 12 events of up to 175 rather than 150, because our July 2009 surveys (previously submitted to the Commission in July 2009) indicate that such number would include approximately 86 percent of the events currently held on private land. We also suggest that some flexibility be built into the ministerial permit process, not by the use of setbacks as proposed in the current draft, but rather by allowing property owners to choose how to allocate the total number of attendees annually. For example, 12 events of maximum 150 represents a maximum of 1800 attendees annually. (175 = 2100).

We propose allowing a maximum number of 12 events annually, with a maximum annual number of guests of 1800 (or 2100) with no more than 250 at any one event. The venue would be allowed to (for example), host 7 events of up to 250 rather than 12 of up to 150 (or 175). Those who host events are in the best position to know what size event their property is able to comfortably accommodate.

If the ordinance imposes the maximum frequency (12 for ministerial permit) and the maximum annual attendance (1800-2100) and the maximum attendance for any one event (e.g. 250), then the venue owner could be given the flexibility to host slightly larger events less frequently, if that is what they choose. Those numbers would encompass the vast majority of for-profit events, and provide a path to compliance for almost all private venues not seeking to construct permanent facilities.

Conclusion

The Board, the Planning Staff, and the Planning Commission have spent countless hours on the issue of how best to create a tiered permit system that would allow events to continue on private property

while still protecting neighboring agricultural and residential uses. Many of the provisions of the proposed ordinance clearly represent good faith attempts to enact the Board's intentions into law. Unfortunately, the current draft still reveals the flaws in trying to legislate a "one size fits all" ordinance. CABO's comments, as set forth above, highlight a few of the problem areas in the current draft. We respectfully refer the Commissioners to our previously submitted comments, which are incorporated by reference here, and are included in the Staff Report as pages 121 through 133.

**Submitted by the Coalition of Affected Business Owners
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