

From: "Morrison, David" <David.Morrison@countyofnapa.org>
Subject: RE: Elusive Zucker Report
Date: December 6, 2015 2:06:07 PM PST
To: "Norma Tofanelli" <keepnvap@sonic.net>
Cc: "McDowell, John" <John.McDowell@countyofnapa.org>

A copy of the

The Zucker Report was first heard in a time-set public hearing on July 14, 1987. The Minutes for that hearing are as follows:

25. 2:00 P.M. - Presentation of Planning Consultant's Final Report. ZUCKER SYSTEMS' REVIEW OF THE PLANNING DIVISION OF THE NAPA COUNTY CONSERVATION, DEVELOPMENT AND PLANNING DEPARTMENT WAS PRESENTED AND DISCUSSED - ACTION PLAN FOR IMPLEMENTATION TO BE CONSIDERED 8/4/87

The item was continued and was heard on the Regular Calendar for August 4, 1987, where it was Approved by the County. The Minutes for that hearing are as follows:

27. Discussion and approval of proposed action plan to implement recommendations contained in the Zucker/Schienman Report. APPROVED PLAN AND APPOINTED SUPERVISOR HAROLD MOSKOWITE TO SERVE AS MEMBER AND CHAIRPERSON OF THE PLANNING DIVISION REVIEW COMMITTEE AND COUNTY ADMINISTRATOR JAY HULL, TO SERVE AS COUNTY ADMINISTRATOR'S OFFICE REPRESENTATIVE VVMcMG

The Zucker Report was the impetus for the actions that followed. Based on the recommendations of that Report, a Planning and Zoning Compliance: Policies and Procedures Manual was adopted in 1988. The Manual was

The Planning and Zoning Compliance: Policies and Procedures Manual, included Section 560.20. This Section allowed violators to continue to operate pending a decision on the issuance of permits or approvals that would correct the violation. This relief was only allowed when all of the following conditions were met:

- * The violator had been in operation for more than one year;
- * The permit or approval would not require the preparation of an EIR;
- * The permit or approval would not require a General Plan Amendment;
- * The permit or approval would not require a Zoning Code Amendment;
- * Approval of the permit was not extremely unlikely;

The violation would be allowed to continue for a period not to exceed six months, while the permit or approvals were being processed.

This section was discussed at the Board's Code Enforcement Workshop held on August 11, 2015, earlier this year.

The Policies and Procedures Manual was rescinded by the Board of Supervisors in December of 2005.

However, no specific direction was given at that time by the Board to supersede or replace the County's procedure of allowing violations to continue while permits were in process. The flow charts that were adopted to replace the Manual are silent as to whether or not uses that are not in compliance may continue during the permit process. In the absence of specific direction, the County has continued the practice.

I hope that this helps to explain the history of this issue.

Norma,

Here is the file you requested. We didn't have it on-hand, but Mr. Zucker was kind enough to supply it on a holiday weekend.

The County has not relied upon the Zucker Report for its code enforcement authority or rationale. In fact, this copy was provided to me by a member of the public.

We relied on the previously adopted Policies and Procedures Manual and subsequent practice.

I will forward the history of the code enforcement section to you.

David

-----Original Message-----
From: Norma Tofanelli [mailto:keepnvap@sonic.net]
Sent: Friday, December 04, 2015 6:24 PM
To: Morrison, David
Cc: McDowell, John
Subject: Elusive Zucker Report

Hi, David -

Can you provide a copy of the much-relied upon almost-30-year-old Zucker Report that is so frequently referred to as the basis for the winery code enforcement amnesty program that has been operating since the 1980's?

John McDowell was only able to provide pages 1 - 126. The remainder of the report is so far unavailable to the public. It appears that at least 25 pages + exhibits are missing.

Can you also provide a copy of the county's actual code enforcement policy that is so often referred to as the reason why so many winery use permits are changed to match the unauthorized activities instead of cessation of those activities?

Thanks - Norma

From: "Morrison, David" <David.Morrison@countyofnapa.org>
Subject: Re: Elusive Zucker Report
Date: December 6, 2015 2:11:52 PM PST
To: "Norma Tofanelli" <keepnvap@sonic.net>

Here is the Section from the old Compliance Policy and Procedures Manual.

560.20 Relief from requirement that operations cease.

If all of the activity(ies) occurring on the parcel(s) in question can be validated by obtaining the required permit(s) or approval(s) and the activity(ies) in question are not of a nature that require immediate compliance they may be permitted to continue to operate pending the decision on the issuance of the permits(s) or approval(s) if all of the following conditions have been met:

- (1) The use has been in operation for more than one (1) year or the use commenced after the property was purchased from an individual who had been in business for more than one (1) year; and
- (2) The use poses no significant environmental concerns which might require the preparation of an EIR prior to consideration of the needed permit(s) or approval(s); and
- (3) An amendment to the general plan is not required as a precondition to the issuance of the needed permit(s) or approval(s); and
- (4) An amendment to the zoning district regulations is not needed prior to the issuance of the needed permit(s) or approval(s). Rezoning of the parcel upon which the use exists from one zoning district to another is not considered an amendment to a zoning district regulation for purposes of these policies and procedures.
- (5) The unlawful activity(ies) are not so clearly out of character with the surrounding area as to make the approval of the needed permit(s) or approval(s) extremely unlikely.

If all of the conditions set forth in this section are met and circumstances requiring immediate compliance are not present the use shall be permitted to continue for a period not to exceed six (6) months provided that applications for all required permits are filed with the Department within ten (10) days or such longer period of time as may be permitted by the Director.

If, at any point during the application process, an EIR is required, or it is determined that a general plan amendment or amendment to the zoning regulations of the county is required before the permit(s) or approval(s) can be issued, the activity(ies) shall cease until the required permit(s) or approval(s) are obtained.



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