

From: [Arne Petersen](#)
To: [Ford, John](#); [Lazar, Steve](#)
Subject: Re: limitations of a conditional use permit
Date: Friday, March 04, 2022 11:55:59 AM

Mr. Ford,
There is absolutely grounds for revocation.

14.1.1 The permit or variance was obtained or extended by **fraud, material omissions or misstatements of fact.** (Former Section INL#317-42(a); CZ#A315-25(A)(1))

-The mufflers required to reduce the CNEL to 63db do not exist.

14.1.2 The permit or variance granted is being, or recently has been, exercised contrary to the terms or conditions of such approval, or in **violation of any statute, Code section, law or regulation.** (Former Section INL#317-42(c); CZ#A315-25(A)(2); Amended by Ord. [2214](#), 6/6/00)

-It is in violation of local code

14.1.3 The use for which the permit or variance was granted is so conducted as to be a **nuisance.** (Former Section INL#317-42(d); CZ#A315-25(A)(3); Ord. [894](#), Sec. 6, 12/19/72; Amended by Ord. [1726](#), Sec. 5, 3/4/86)

-Obviously a nuisance

14.1.4 The use for which such permit or variance was granted **has ceased to exist or has been suspended for one (1) year or more.** (Former Section INL#317-42(b); Amended by Ord. [2214](#), 6/6/00)

-It has been well over a year and Covid had nothing to do with it.

On Fri, Mar 4, 2022 at 10:16 AM Arne Petersen <arwpetersen@gmail.com> wrote:

Mr. Ford,

Remember that they held an unpermitted event that created an obvious nuisance because of noise and dust. The permit was issued because "magic mufflers" were going to solve the problem. Based on the nuisance that has been demonstrated the permit must be revoked. Any hearing held will be about revocation of the permit. The Fair Board can argue their case, to not revoke the permit, at such a hearing. This permit should have never been issued and modification to allow an obvious nuisance is absolutely unacceptable. Organize a revocation hearing. I will accept nothing else.

-Arne R.W.

On Thu, Mar 3, 2022 at 6:59 PM Arne Petersen <arwpetersen@gmail.com> wrote:

Mr. Lazar,

Please review your Sept. 2021 correspondence with Mr. Ziemer. CNEL?

-Arne R.W. Petersen

Mechanical Engineer, MBA

On Thu, Mar 3, 2022 at 1:07 PM Arne Petersen <arwpetersen@gmail.com> wrote:

Mr. Ford,

I just got through reading the Enterprize and Fair Manager Silacci is quoted saying, "Fair staff are appealing to the county planning commission to amend the permit" and "the expectation is that this is going to be a clerical change?" You may want to coordinate with the Fair so you all use the term "Modification" instead of "Appeal." Of course, they believe it's appeal (which it is) so you should just tell them the chance to appeal has expired.

-Arne R.W.

On Thu, Mar 3, 2022 at 10:03 AM Arne Petersen <arwpetersen@gmail.com> wrote:

Mr. Lazar,

If the hearing is about modification I expect the Planning Commission and Board of Supervisor to once again rubber stamp this "project." I demand a revocation hearing and if you are going to push this any further it will be in court. Stephen Avis will not be interfering this time. Of course, the property is not in your jurisdiction to begin with and Ferndale city officials will be joining us. They also deny responsibility. Regardless of the Commissions actions, This will be sorted out and I am simply giving you a heads up.

-Arne R.W.

On Thu, Mar 3, 2022 at 9:44 AM Lazar, Steve <SLazar@co.humboldt.ca.us> wrote:

Mr. Petersen-

It is entirely appropriate to raise your concerns with the Planning Commission when the modification request is presented. The Planning Commission has the authority to initiate revocation proceedings should they feel it appropriate to do so.

Though we have yet to target a specific date for the public hearing on the modification, I suspect it will be in the next few months and will be sure to let you know once it has been set.

Steven Lazar

Senior Planner

Humboldt County Planning &

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[3015 H St.](#) | Eureka, CA 95501

707/268-3741

slazar@co.humboldt.ca.us

From: Arne Petersen <arwpetersen@gmail.com>
Sent: Thursday, March 03, 2022 9:32 AM
To: Lazar, Steve <SLazar@co.humboldt.ca.us>
Subject: Re: limitations of a conditional use permit

Mr. Lazar,

First of all, do not reference the AMA on anything as they do not set any standards. The Fair Board chose not to have racing this year because the FB Manager thought it would be too much to hold the Fair and a race meet. Covid had nothing to do with it. They did however hold a irresponsible fair jeopardizing the community.

Second, You are effectively telling a citizen, the county can do whatever the hell they want and there is nothing I can do about it. If this is the case let's take this garbage to Court!

-Arne R.W.

On Wed, Mar 2, 2022 at 4:16 PM Lazar, Steve <SLazar@co.humboldt.ca.us> wrote:

Mr. Petersen-

There are no grounds for pursuing revocation at this time.

Findings and procedures for permit revocation vary by jurisdiction --the code language referenced in your email appears to be from the [City of Escondido](#).

The revocation provisions of Humboldt county code can be found here:

<https://humboldt.county.codes/Code/312-14>

I have also provided the salient provisions below for your immediate reference.

Revocation proceedings may only be initiated by the Board of Supervisors, Planning Commission, or Planning Division.

There have been no violations of the Use Permit to date. The permit has not been exercised contrary to the terms or conditions of approval.

Due to combination of factors (primarily the current COVID-19 pandemic), events have yet to occur and HCFA has been keeping us abreast of all events being contemplated.

As you know, HCFA is seeking a modification to the permit to raise the 90 decibel individual motorcycle noise limit. While it remains possible to achieve 90 decibels with extensive exhaust system treatments, they are requesting the increase because the limit is proving to be too restrictive to attract interest amongst the even promoters they have been in touch with. It is also inconsistent with common American Motorcycle Association (AMA) noise limits applied at other tracks throughout the state. They are not seeking to raise the 24-hour noise limit (CNEL - 63 decibels) that is approved for the permit –this limit is based on 24-hour calculations where a 99-100db individual motorcycle noise limit is expected. It is appropriate that the Planning Commission be given a chance to consider the permit modification request.

For all of these reasons, neither the modification request nor its basis are grounds for revocation of the permit.

Steven Lazar

Senior Planner

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312-14 REVOCATION PROCEDURES

14.1 GROUNDS FOR REVOCATION.

A development permit or variance may be revoked or modified by the Board of Supervisors after a Public Hearing, upon finding that:

14.1.1 The permit or variance was obtained or extended by fraud, material omissions or misstatements of fact.

14.1.2 The permit or variance granted is being, or recently has been, exercised contrary to the terms or conditions of such approval, or in violation of any statute, Code section, law or regulation.

14.1.3 The use for which the permit or variance was granted is so conducted as to be a nuisance.

14.1.4 14.1.4 The use for which such permit or variance was granted has ceased to exist or has been suspended for one (1) year or more.

14.2 PROCEEDINGS

Proceedings to revoke a development permit or variance may be initiated by the Board of Supervisors, Planning Commission, or the Planning Division of the Community Development Services Department.

From: Arne Petersen <arwpetersen@gmail.com>

Sent: Wednesday, March 02, 2022 1:16 PM

To: Lazar, Steve <SLazar@co.humboldt.ca.us>; Ford, John

<JFord@co.humboldt.ca.us>

Subject: Re: limitations of a conditional use permit

Mr. Lazar,

Common reasons for revoking a permit include:

- (a) That the use is detrimental to the public health, safety or welfare or is a nuisance;
- (b) That the conditional use permit was obtained by fraud;
- (c) That the use for which the permit was granted is not being exercised;
- (d) That the use for which the permit was granted has ceased or been suspended for twelve (12) months or more;
- (e) That the conditions of the improvements, if any, on a property for which a conditional use permit has been issued, are such that they can be used or altered as to be used in conformity with the uses permitted in the zone in which such property is located without impairing the constitutional rights of any person;
- (f) That the conditions of the conditional use permit are not being complied with.

What do I need to do to have this permit revoked?

-Arne R.W. Petersen

On Wed, Mar 2, 2022 at 12:07 PM Lazar, Steve <SLazar@co.humboldt.ca.us> wrote:

Mr. Petersen-

Director Ford has asked me to assist with answering questions about “permit limitations” posed in your email yesterday.

Below is a summary of the primary “limitations” of the permit. This information is derived from the conditions of approval and approved operations plan for the project. You can find this same information by reviewing the Conditions of Approval found on pgs. 24-30 of the attached Board Approval Resolution.

FLAT TRACK RACING

- A maximum of two (2) motorcycle events may be held each year. Each event shall occur within the course of a single day. An additional day of racing can be allowed if all the racing on that day is by electrical motorcycles, but in no case shall the total of motorcycle racing exceed 4 days per year.
- A noise test must be performed on all motorcycles before they may be allowed to be used in a race. Noise is measured 20 inches from the end of the exhaust pipe. To be eligible for racing, noise from each bike must measure at or below 90 decibels.
- The 24-hour community noise equivalent level (CNEL) for motorcycle racing events is 63 decibels.
- Should racing be scheduled to occur on a windy day, water or other dust suppressants must be used to control the potential for dust escaping from the racetrack and fairgrounds.

CONCERTS

- A maximum of five (5) concerts may be held each year. Each event shall occur within the course of a single day. Concerts cannot last longer than 2 consecutive days.
- During all concert events, a dense strawbale sound wall will be installed near the rear of the stage between the concert and Arlington Avenue. The sound wall shall be of sufficient thickness and height to insure it provides at least 20 decibels of noise attenuation.
- The 24-hour community noise equivalent level (CNEL) for concert events is 73 decibels.
- A sound engineer must be used during all concert events. The engineer is responsible for working with event staff to ensure that amplified music does not cause an exceedance of the CNEL noise limit.

ALL EVENTS

- All events must be over by 10pm
- Lighting must be directed towards the ground and shielded to ensure no light spillage on adjacent parcels.

A comprehensive traffic management plan must be prepared and submitted to the Land Use Division of Public Works for review and approval.

MONITORING/REPORTING

- Each year by February 14th, a schedule of all events planned for that year must be provided to the Planning & Building Department.
 - For five (5) years, HCFA must submit a monitoring report showing that events have been successfully operated in conformance with all mitigation measures, operational restrictions, and conditions of project approval. The report must include a listing of all events held, with dates, start/end times, number of tickets sold/attendance, parking areas utilized, and event-specific noise measurements. Photographs must be provided documenting compliance with light spillage restrictions.
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- The permit has no expiration date, and is not appealable.

As you know, following approval of the Use Permit by the Planning Commission on September 17, 2020, a timely appeal was filed. The appeal was presented to the Board of Supervisors at their meeting on November 10, 2020. After considering the matter, the Board voted to deny the appeal and uphold the Planning Commission's approval of the permit. The Board's approval included provisions for allowing an additional day of motorcycle racing if exclusively featuring electrically powered motorcycles. There was also encouragement to provide a special all-electric race "class" during conventional moto events. Substitute mitigation measures were included in the Board resolution clarifying lighting performance standards and the allowed duration of each motorcycle event. The resolution is attached for your reference. Section 312-13.8 of County Code clarifies that any decision by the Board on an appeal is final. As Director Ford noted in his response yesterday, any decision made by the Planning Commission on the forthcoming permit modification request is eligible for appeal to the Board of Supervisors.

I hope this helps answer your questions.

Steven Lazar

Senior Planner

Humboldt County Planning &

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slazar@co.humboldt.ca.us

From: Arne Petersen <arwpetersen@gmail.com>

Sent: Tuesday, March 1, 2022 8:57 AM

To: Ford, John <JFord@co.humboldt.ca.us>

Subject: limitations of a conditional use permit

Mr. Ford,

What exactly are the limitations for the HCAF conditional use permit? What is the expiration date, appeal limitations, etc.?

-Arne R.W. Petersen