



CALAVERAS COUNTY PLANNING DEPARTMENT
891 Mountain Ranch Road,
San Andreas, California 95249
(209) 754-6394

REVISED Planning Commission Staff Report

Hearing Date	March 23, 2023
Project Number/Name	2023-010 Appeal of Administrative Use Permit AUP 2022-060 for Jonathan and Allyson Niemuth dba Niemuth Manor
Supervisory District Number	District 4
Assessor's Parcel Number(s)	057-001-048
Planner	Gabriel Elliott, Director of Planning

Date: March 16, 2023

PROJECT DESCRIPTION: Allyson and Jonathan Niemuth, dba Niemuth Manor, are appealing the Director of Planning's decision of the denial of Administrative Use Permit (AUP) 2022-060, to host five special events, including private weddings and birthday parties with up to 300 guests at a time, inside an event tent and on the lawn and gravel patio areas at 769 Dogtown Road, Angels Camp. There would be amplified music outdoors for up to five hours per day, and onsite parking is proposed to hold "170 cars and more if needed". The submitted events calendar includes four private weddings to be held on February 25, 2023, and three consecutive weekends from March 11, 2023, to March 25, 2023, and a Firemen's Ball to be held sometime in April. The application is attached as Exhibit 2, the denial letter is attached as Exhibit 3, and the appeal letter is attached as Exhibit 4. After the application was submitted but before the denial letter was sent, a letter was received from the Niemuth's counsel describing additional events planned for the site in 2023 along with a long-term plan to further develop the parcel as a short-term lodging and private event venue. This letter is attached as Exhibit 5.

APPELLANT/LANDOWNER: Allyson and Jonathan Niemuth
769 Dogtown Road
Angels Camp, CA 95222

PROJECT LOCATION: The property is a 24.13-acre parcel zoned Rural Residential-X (RR-X) with a Rural Transition B (RTB) General Plan designation, and is a portion of Section 20, 21 T3N, R13E, MDM. (The "X" in RR-X means that no further subdivision of the parcel is allowed.)

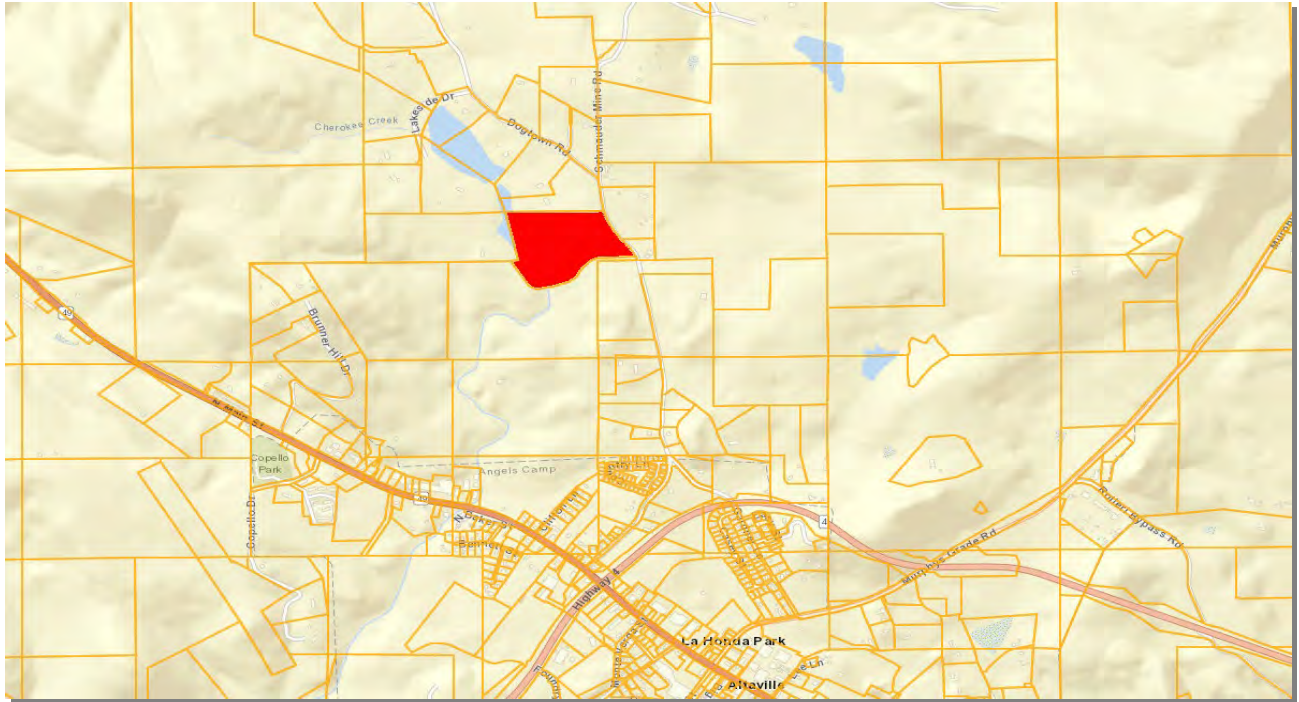


Figure 1: Location Map



Figure 2: Aerial Map

The parcel is an approximately 24-acre parcel that includes a vineyard operated under separate management, a five-acre pond, an unpermitted tent, a private non-commercial swimming pool, a residence, glamping sites and other miscellaneous structures. The site is unpaved and unimproved. The property is surrounded by personal ranches and there are no walls separating the site from adjacent properties. In this case, although the parcel is large, the area of proposed activity is limited to an unpermitted event tent, lawn areas and gravel patio areas. The events are noisy and generate a lot of traffic on Dogtown Road, which is not built for large crowds and has extremely poor ingress and egress access unto Highway 49. Dogtown Road T's on to Highway 49 right before the Hwy 4/Hwy 49 intersection, which is one of the most congested areas of the City. According to the City of Angels Camp, this is why Caltrans is focusing on an operational project to change the circulation to a roundabout and restrict access onto Hwy 49 from Dogtown Road to limit drivers to only a right turn. This means only a right turn on to Dogtown Road as well. Until this project, scheduled to begin in 2026 occurs, any increase in traffic flow on Dogtown Road is extremely dangerous.

BACKGROUND:

On December 9, 2022, the Calaveras County Planning Department received a Special Events application from Allyson and Jonathan Niemuth for five events at 769 Dogtown Road, in Angels Camp. The proposed event calendar attached to the application includes four "private weddings" and one "Firemen's Ball". The application also described an onsite parking plan for "170 cars and more if needed" and noted that the events would be taking place in an "event tent" and on a lawn and gravel patio, that the events would be occurring "from approximately 4pm-10pm", and that outdoor music with amplified sound would be playing "4-5 hours" on event days. The application was deemed complete on January 12, 2023, when issues with the indemnification agreement were resolved. Special Events are subject to the requirements of County Code Chapter 17.83, Administrative Use Permit (AUP).

On December 14, 2022, the Planning Department, in accordance with its usual practice for AUPs, circulated the application to neighbors within three hundred (300) feet and provided them an opportunity to comment. In response to the public notice sent regarding the AUP, eight neighbors wrote letters in opposition to granting the permit. Figure 3, below, identifies the locations of the neighbors' properties in relation to the wedding venue. The comments received covered nine specific impact areas: noise, road impacts, impacts to pets and livestock, tent (not permitted or soundproofed), property values, character of the neighborhood, use not permitted in the zone, safety, and alleged use of someone else's easement. The comment letters are attached as Exhibit 6.

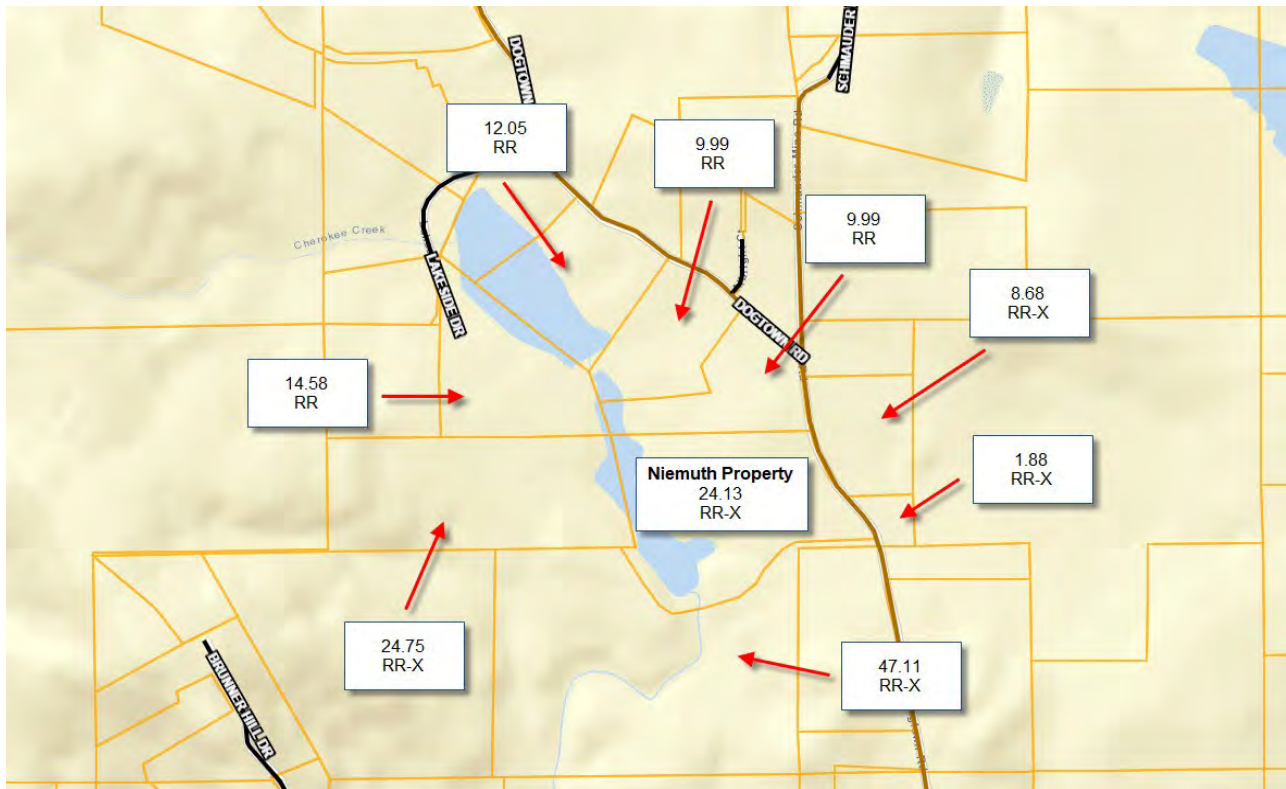


Figure 3: Neighbor Comment Location Map

On January 30, 2023, the applicant's attorney, Diane Kindermann, sent a letter to Deputy County Counsel Julie Moss-Lewis stating that the applicant "is trying to schedule more weddings in the spring and summer and is planning its Summer Music by the Lake Series to occur in late spring, summer and fall of 2023." The letter also described more expansive plans to expand short-term lodging on the parcel and to use the property "for weddings, fundraisers, music series on the lake and a wine tasting room". While these additional plans for the property may be outside the scope of the current application and its appeal, the CEQA prohibition against "piecemeal" analysis of various portions of what is really a larger project makes them relevant to the scope of the environmental analysis that will likely be required to approve this permit if the appeal is overturned.

On February 7, 2023, upon consideration of the findings and review of relevant facts pertaining to this application, the Planning Director denied the application. The denial letter is attached as Exhibit 3. Specifically, the Planning Director found that the subject property, located at 769 Dogtown Road, and zoned Rural Residential -X (RR-X), is designed to provide lands for personal ranches where residential uses are the primary land uses (County Code Section 17.22.010). Any commercial uses approved pursuant to a use permit application would need to be consistent with other permitted or conditionally permitted uses in the RR zone. The director found that the use of an RR-zoned property as a commercial private wedding venue is not similar to any other use(s) permitted by right or conditionally in the RR zone, as four of the five proposed events ("private weddings") are not "special events" and do not constitute "agritourism". County Code

Section 17.83.020(a) requires that the proposed activity or use is consistent with the General Plan and the Zoning Ordinance, and the Planning Director was unable to make this finding. Due to the size, frequency, and primarily residential location of the proposed events, and due to the fact that the events are also proposed to take place out-of-doors, with 4-5 hours of amplified music at a time, and with a potential for over 170 vehicles traveling to and from each event, the Planning Director was also unable to make the required finding under County Code Section 17.83.020(C) that the proposed use does not have the potential to affect the public health, safety, and general welfare. The number of comments received and the contents of these comments strongly support denial on this basis alone.

On March 8, 2023, the City of Angels Camp submitted a letter in response to this appeal. The project location is within the City's Secondary Sphere of Influence. The City expressed concerns and concurs with the denial of the AUP. Some of the concerns are that the venue causes undue burdens on City resources. While the property is technically located outside of the city limits, the City staff would be the closest to responding in the case of an emergency or necessary response for life and safety. In addition, depending on the size of the event, the City asserted that Dogtown Road is not built for large crowds and has extremely poor ingress and egress access onto Highway 49. This creates a traffic burden at that cross-section and the additional use of Dogtown Road that is in the City limits is not receiving mitigation funding for those repairs or restoration activities that would be required due to the increased use as would normally occur with permit fees collected within the City. The City also cited concerns with the project's potential burden on law enforcement, Fire Marshall, and building. The complete comment letter from the City is attached as Exhibit 7.

ANALYSIS

Administrative Use Permits are governed by Chapter 17.83 of the County Code. When an application for an AUP is filed, the Planning Director has three choices—grant the permit, grant the permit with conditions attached, or deny the permit.

To grant an AUP, and pursuant to County Code Section 17.83.020, the Planning Director must find that: (a) the proposed activity or use is consistent with the General Plan and Zoning Ordinance; (b) the subject property is adequate in land area to accommodate proposed activity or use; (c) the proposed activity or use for which the permit is sought will not potentially affect the public health, safety, and general welfare; and (d) conditions applied to the administrative use permit are necessary to protect the environment and the public health, safety and general welfare.

Section 17.83.030(D) also *requires* the Planning Director to deny the permit if he “finds that the proposed use for which the permit is sought has the potential to be detrimental to the public health, safety and welfare and that there are no permit conditions that can offset these effects, or that the proposal is not consistent with the general plan or zoning ordinance.”

Per Section 17.83.050, special event administrative use permits are also subject to the provisions of Chapter 17.87 of the County Code. The term “special event” is defined in 17.06.1807, and the purpose of Chapter 17.87 (“Special Event Permits”) is described in Section 17.87.010, which states in relevant part:

The purpose of a special event permit is to provide for a review process to consider activities or uses which may be compatible with other permitted uses within a zone district, but due to their nature may have an impact on the environment or the public health, safety and welfare of the community. Special event permits require consideration of site design, adjacent land uses, availability of public infrastructure and services, and environmental impacts, based on the specific location of any proposed activity or use requiring such a permit.

Depending on the type, nature, and number of special event(s) proposed as well as the restrictions of the zone in which the event site is located on, special events may be permitted by right (meaning no permit is required); permitted through a temporary, administrative, or conditional use permit; or prohibited. (See 17.97.050). When the Planning Department reviews a special event permit application, it reviews the extent to which special events are allowed in the property’s zone and then applies both the provisions of Chapter 17.87 and the provisions of the Zoning Code Chapter governing the type of use permit required (either chapter 17.82, Chapter 17.83, or chapter 17.84).

1. Inconsistency with the Zoning Code

The subject property, located at 769 Dogtown Road, and zoned Rural Residential – X (RR-X), is designed to provide lands for personal ranches where residential uses are the primary land uses (County Code Section 17.22.010) Any commercial uses approved pursuant to a use permit application would need to be consistent with other permitted or conditionally permitted uses in the RR zone. The proposed use of this RR-zoned property as a commercial wedding and event venue is not similar to any other use(s) permitted by right or conditionally in the RR zone, and the proposed events, which include four “private weddings”, do not meet the definition of Special Event as defined by County Code Section 17.06.1807.

The land uses allowed in RR zone are described in Chapter 17.22 of the County Code. The Planning Department identified two potential listed uses that required further analysis to determine whether the proposed use is the same as or similar to them:

- 1) “Special events, subject to the provisions of Chapter 17.87”, which are a permitted use in the zone per 17.22.020(A)(6)(d), and
- 2) “Agritourism activities not otherwise specified (more than seventy-five persons on-site at one time)”, which are a permitted use in the zone on parcels over 20 acres per 17.22.030(B)(3)(a) [with superscript 7 applied per 17.22.060(d)], so long as it also meets the superscript 10 requirement of being an “incidental or accessory use to a bona fide agricultural operation”].

Per the County’s “permissive zoning” ordinance (County Code Section 17.04.010), no

building or structure shall be constructed on a property, nor any land use commenced, altered, or enlarged on a property, unless it is allowed in the property's zone.

A. Special Events

With the possible exception of the firemen's ball, this application does not describe proposed uses that fit into the Zoning Code's definition of "special events". Special Events are defined in County Code Section 17.06.1807 as (an) "*organized activity, assembly, or event **to which the public is invited to watch, listen or participate**, and for which compensation may be made, for the use of the site and facilities if held on private property.*" The application at issue is for four "private weddings" and a firemen's ball. The plain language of 17.06.1807 would therefore preclude the "private weddings" from being considered "special events". The "firemen's ball" *could* be considered a "special event" if there was evidence that the public would be allowed to attend, but the applicant did not indicate in his appeal letter that he was willing to proceed with this event alone being approved under a permit.

Examples of special events enumerated in the definition provided in 17.06.1807 include the following:

1. *Races - pedestrian, bicycle or motorized; 2. Carnivals, circuses, parades, fairs, festivals, car shows, or similar activities; 3. Concerts or musical events that are acoustic, amplified, recorded or hosted by a disc jockey; 4. Health or educational fairs; 5. Arts and crafts exhibits; 6. Flea markets; 7. Farmers markets; 8. Any event with mechanized amusement rides; and 9. Any event that will take place on a public right-of-way within the boundaries of the county other than the exemptions listed in Section 17.87.030 (Exemptions).*

Each of the nine examples of special events provided in 17.06.1807 is a type of special event that is geared to the public, and there is no mention of private parties or private weddings. Thus, even if one were to move beyond the plain language of 17.06.1807 to examine legislative intent, it is clear that the intent of the Special Events section of the County Code is for public gatherings, not private parties.

Since at least four of the five proposed events are not "special events" as defined in County Code, and the County clearly intended to distinguish between public and private events, the permit cannot be approved as a "special events, subject to the provisions of 17.87".

It is important to note that, even if the types of events proposed did constitute "special events", the type, size, intensity, frequency, and location of special events would be important factors in deciding the merits of the applications. For example, 17.87.090(A)(2) provides that special event permits can be denied if approval would be contrary to the public health, safety, and welfare because, "[t]he time and duration of the use of amplified sound would unduly interfere with the residents' quiet enjoyment of their property for an extended and unreasonable period of time, and the applicant is unable or unwilling to

modify the special event size, location, time or duration to minimize such interference.”

It is even more important to note that there is also a distinction between a proposal to hold individual events or even a series of events and a proposal to develop a permanent commercial event venue. In this case, the applicant is acknowledging that he is seeking to develop a permanent short-term lodging and outdoor event venue on the parcel and that his application to hold four private weddings and a firemen’s ball is intended as a mere stepping stone to this larger end. There are no permitted or conditional uses of this nature listed in the RR zone. This is not an accidental omission on the part of the County, because similar uses to the ones proposed are listed in a different zone—the REC zone, which allows “retreats”, “campgrounds”, “hotels”, “motels”, “lodges”, “bed and breakfast inns”, “other commercial amusement uses”, and “all other forms of recreation not enumerated in this chapter”, which can be presumed to accommodate private event venues like the one being proposed here—including ones that involve a lot of people and a lot of noise (“carnivals” and “target and shooting ranges” are allowed in this zone).

B. Agritourism

Because the applicant has a working vineyard on the property at issue, the Planning Department considered whether the proposed events would be allowed in RR as “agritourism not otherwise specified (more than seventy-five persons on-site at one time) per 17.22.030(3)(a). Agritourism is defined in County Code 17.06.0151 and means:

“...an enterprise located at a working farm, ranch, or other agricultural operation or agricultural plant/facility conducted for the enjoyment and education of visitors, guests or clients that generates income for the owner/operator. Agricultural tourism refers to the act of visiting a working farm/ranch or to any agricultural, horticultural or agricultural operation for the purpose of enjoyment, education or active involvement in the activities of the farm/ranch or agricultural operation that also adds to the economic viability of the agricultural operation.”

Examples of agritourism include “camping”, “festivals”, “farm/ranch vacations”, and guest ranch”. The County has historically applied this ordinance as requiring a degree of nexus and proportionality between the agricultural enterprise and the tourism facilities. For example, the County has, in the past, refused to authorize a proposal for a large golf course on a property containing a small, incidental olive orchard “agritourism”, and the evidence in this case does not suggest that there is any nexus or proportionality between the proposed private events and the small on-site vineyard.

Chapter 17.22 (Rural Residential Zone) also imposes its own separate restrictions on agritourism uses involving more than 75 guests through Superscript 10, making them subject to the additional standard described in 17.22.060(D). This Section says, **“When utilizing lands within this zone, this permitted use shall be an incidental or accessory use to a bona fide agricultural operation.”** The term “accessory use” is defined in 17.06.0080 to mean “a land use that is associated with an existing permitted or conditional use within a zoning district.” There is no evidence here of any association

between the proposed special events and the vineyard on the property. The evidence in the record suggests that the primary intention with this property is to develop it as a short-term lodging and event venue, not as a vineyard. Instead of the private events being incidental or accessory to the vineyard operation, the uses proposed here are the other way around: It is the vineyard that is incidental to the primary use of the property as a commercial event venue. Applicant's counsel's letter suggests that private events and short-term lodging are and will be the commercial drivers on the property, not the wine. There is no evidence at all the on-site vineyard is a necessary component of any of the events proposed in this application, and it is certainly not the primary use being proposed.

1. Potential detriment to the public health, safety and general welfare.

There are no conditions that can be imposed that would prevent the proposed use from resulting in a potential detriment to the public health, safety and general welfare given the size, frequency, and intensity of the proposed events and the number of residential properties in proximity to the proposed site. The proposal includes five, six-hour outdoor events over a three-month period that will include 200-300 guests, 170+ cars, and 4-5 hours of live amplified music...all on a property located adjacent to multiple residential properties and in a zone in which residential uses are intended to be primary.

Multiple residents within 300 feet of the subject property complained that they were not far enough away to avoid many hours of noise loud enough to prevent conversation and make their windows rattle. There are also complaints about fire access being inadequate for the number of people in attendance, traffic snarls at the intersection with Highway 49, unsafe structures, and campfires in a fire prone area. While conditioning the project could potentially alleviate some of these concerns—had it not been a prohibited use in its zone—the location and number of nearby residences combined with 1) the location and number of large events proposed with amplified music and 2) limitations of Dogtown Rd. combined would not reduce the impacts to the point where they do not constitute a potential detriment to health, safety, or welfare of the general public. The location of the parcel is inappropriate for the proposed use.

The city of Angels Camp expressed concern in its March 8, 2023 comment letter that Dogtown Road, which intersects Highway 49 within its limits, will suffer road impacts due to the amount of additional traffic that would be authorized to travel back and forth on it if events of this size and frequency are approved at the subject property.

As indicated in the letters of opposition received from surrounding property owners and the City of Angels Camp, activities similar to the ones proposed in this application have purportedly been conducted already by Niemuth Manor over the last year and have already been perceived as a nuisance by the surrounding property owners. Legitimizing a continuation of those activities and similar activities through the approval of this permit can be expected to result in continued impacts on local residents.

Even if the proposed events were permitted in the RR zone, as discussed above, Section 17.83.030(D) requires AUPs to be denied if “the proposed use for which the permit is

sought has the potential to be detrimental to the public health, safety and welfare and that there are no permit conditions that can offset these effects, or that the proposal is not consistent with the general plan or zoning ordinance.” The proposed events clearly have that potential; therefore, the permit must be denied.

Appeal

On February 21, 2023, the Niemuths filed an appeal of the Planning Director’s denial pursuant to County Code Section 17.83.030(e). An appeal of any decision made under County Code 17.83.030(e) is subject to County Code 17.98.070.

One of the contentions in the appeal letter is that the Board of Supervisors must have intended to allow private events as “special events” despite the definition in County Code that plainly requires them to be public. The contention is that there are other similar venues operating in the RR zone in Calaveras County. The appellant does not indicate whether the other similar venues are operating legally (e.g. with permits) or not, and, to the extent they are not, that is an enforcement issue that would be addressed by Code Compliance through its complaint-based enforcement program. The issue here is whether or not to grant a permit application. Since the plain language of 17.87 precludes the approval of private events as “special events”, and since a permit cannot be issued if it has the potential to negatively impact the health, safety, or welfare of the general public, the Department cannot grant this permit.

The appellant also asserts that his permit should be granted because he has received a business permit for 2023 which authorizes them to conduct business as an event venue. Issuance of business licenses is regulated by the County Tax Collector’s office, not the Planning Department, and the issuance of a business license does not operate as *carte blanche* to violate other sections of County Code. Nothing in the business license chapter of the County Code (Chapter 5.04) remotely suggests this. The Planning Department reviews business license applications to ensure that they are not a type of business that is clearly prohibited in a zone. The only description of the business on the business license application was “event venue”, so it was unclear from this application, for example, whether the proposed events would be public or private; what zone they were proposed in; or whether they were being proposed as bona fide agritourism events. Even if the Planning Department erred in signing off on this particular business license, the appellant clearly understood that a business license would not alone authorize his requested event series or the development of his event venue, —because he did *not* rely on this license alone to proceed with his event series but also filed an application for a use permit and is working with other departments to legally obtain various ministerial permits—such as grading and building permits. The use permit application, unlike the application for the business license, is designed not just to determine whether a business can lawfully be conducted *somewhere* in Calaveras County under *certain* conditions but also captures additional information to help the Planning Department to determine whether the use as proposed on a specific piece of property is allowed or can be conditionally allowed under Title 17 of the County Code. In short, the granting of a business license in no way authorizes the applicant to proceed on a project in violation of

the zoning code.

In defiance of the denial of the AUP, Niemuth Manor held a wedding event on February 25, 2023. Comments received from the neighbors regarding this event indicated that there was noise from music and heavy traffic on Dogtown Road. One letter indicated that there was fireworks display as part of the private wedding ceremony. Niemuth Manor plan to hold all the weddings identified in this report even with the denial of the AUP.

ENVIRONMENTAL REVIEW: This project is categorically exempt from CEQA pursuant to CEQA Guidelines section 15270, which exempts disapproved projects from CEQA. Should the denial of this permit be overturned in whole or in art, the Planning Department will determine what, if any, environmental document must be prepared to comply with CEQA.

RECOMMENDATION: Staff recommends the Planning Commission adopt resolution 2023-004, denying 2023-010 Appeal and upholding the Planning Director's denial of AUP 2022-060.

ATTACHMENTS:

1. Resolution 2023-004
2. Application submitted 12-09-22
3. Denial Letter dated 02-07-23
4. Appeal Letter dated 02-21-23
5. Niemuth counsel letter dated January 30, 2023
6. Surrounding property owners' letters
7. Letter from City of Angels Camp date March 8, 2023

Attachment 1

Draft Resolution 2023-004

**COUNTY OF CALAVERAS, STATE OF CALIFORNIA
PLANNING COMMISSION**

RESOLUTION NO. 2023-004

>>A RESOLUTION DENYING APPEAL 2023-010 AND UPHOLDING PLANNING DIRECTOR'S DENIAL OF AUP APPLICATION 2022-060 TO HOST A SERIES OF PRIVATE EVENTS AT 769 DOGTOWN ROAD, ANGELS CAMP (APN 057-001-048)

WHEREAS, on December 9, 2022, the Planning Department of the County of Calaveras received an application for a Special Events Administrative Use Permit (AUP) from Allyson and Jonathan Niemuth for five (5) events including four private weddings and a Firemen's Ball on a 24-acre property zoned RR-X; and

WHEREAS, the proposed events will be held on real property in the unincorporated portions of the County of Calaveras, more particularly described as APN: 057-001-048 and located at 769 Dogtown Road, a portion of Section 20, 21, T3N, R13E, MDM; and

WHEREAS, on February 7, 2023, the Planning Director denied the application for the reasons described in the staff report and its attached exhibits, which are incorporated by reference herein,; and

WHEREAS, on February 21, 2023, Appeal 2023-010 was filed by Allyson and Jonathan Niemuth challenging the Planning Director's denial of AUP 2022-060; and

WHEREAS, during a noticed public hearing on March 23, 2023, the Planning Commission considered all of the information presented to it, including but not limited to a staff report and attachments, information and evidence presented in advance by staff and the project's proponents and opponents, and information and evidence presented at the meeting;

NOW THEREFORE BE IT RESOLVED, that the Planning Commission denies Appeal 2023-010, and upholds Planning Director's denial of AUP 2022-060, based on the following findings:

1. The Administrative Use Permit must be denied because the proposed use or activity is not consistent with the County's Zoning Ordinance as required by 17.93.020.A.

Evidence: An Administrative Use Permit cannot be approved if the proposed activity or use is inconsistent with the Zoning Ordinance. For the reasons described in the staff report and supported by evidence in the record, the event series requested in this application cannot be approved on this property, which is zoned Rural Residential. The uses allowed either by right or conditionally in the RR zone are described in Chapter 17.22 of the Zoning Code. The subject property is approximately 24 acres, surrounded by other similarly zoned properties of similar

size, and the application requested a series of “private wedding” events plus a “Firemen’s Ball”. The events would take place outdoors with up to 300 guests per event, onsite parking for at least 170 vehicles taking access from Dogtown Rd., and the events taking place from 4-6pm with 4-5 hours of amplified music per day. The applicant stated that they intend to seek permission to host additional events of similar size into 2023 and to develop the property as a permanent event venue.

Two potential uses allowed in the zone—“special events, subject to the provisions of Chapter 17.87” and “agritourism activities not otherwise specified (more than seventy-five persons on-site at one time)” were identified as requiring further analysis to see if the proposed event series could fit into these categories. At least four of the five proposed events are not open to the public and are therefore not “special events” due to the plain language of the County’s Ordinance defining this term as limited to events to which the “public” is invited (17.06.1807). Even if the rules governing statutory interpretation allowed a consideration of legislative intent, the nine examples of special events provided in 17.06.1807 evince a clear intent to limit the definition to non-private events.

While there is a small commercial vineyard on the property, there is no evidence of nexus or proportionality between the small vineyard and the large proposed events; the proposed events described in the application are unrelated to and wholly independent from the vineyard on the property, and the events—which could occur as planned with or without the existence of a vineyard on the property—are not accessory or incidental to the viticulture use on the property. Therefore, the proposed event series is not agritourism for the purposes of Chapter 17.22, which describes uses allowed in the RR zone and adds additional requirements for agritourism uses in the zone that involve more than 75 guests.

Because the proposed uses of the property in the application do not conform to the criteria required for any permitted or conditional uses in the RR zone, they are prohibited in the zone under the County’s “permissive zoning” ordinance (17.04.010), which provides that land uses are prohibited if not expressly allowed in a zone. The fact that uses similar to the lodging, camping, and event venue proposed by the applicant are allowed in the REC zone suggests that the omission of this use in the RR zone was not an inadvertent omission on the part of the County.

2. The proposed activity or use must be denied pursuant to Section 17.87.090 because, even if the events did constitute “special events” for the purpose of Chapter 17.87, three circumstances supporting denial under Section 17.87.090 are present.

Evidence: Ingress and egress to the proposed events would be taken from Dogtown Road, which intersects with Highway 49. For the reasons discussed in the staff report and other evidence in the record, neither the road nor its intersection with Highway 49 are adequate to absorb up to 170 cars coming and going to each of

these events. These facts support denial under 17.87.090 (B)(1) and (4) due to interference with ingress and egress to Highway 49, a State highway, and due to the number of guests driving on Dogtown Road exceeding the road's capacity. Also, each of the proposed events would take place outdoors with 4-5 hours of amplified music that could continue until 10:00pm each night an event is held. The proximity of the property to other residences combined with the fact that the subject property and neighboring properties have Rural Residential Zoning, which is intended to give primacy to residential uses of the properties, combined with the fact that the applicant is not requesting permission for a single standalone event but for a series of similarly loud outdoor events supports denial under 17.87.090(A)(2) due to the time and duration of amplified sound interfering with the residents' peace and enjoyment of their property.

3. The subject property is not adequate in land area to accommodate proposed activity or use within the meaning of 17.83.020(B):

Evidence: The parcel is an approximately 24-acre parcel that includes a vineyard operated under separate management, a five-acre pond, an unpermitted tent, private, non-commercial swimming pool, a residence, glamping sites and other miscellaneous structures. The site is unpaved and unimproved. The property is surrounded by personal ranches and there are no walls separating the site from adjacent properties. In this case, although the parcel is large, the area of activity is limited to an unpermitted event tent, lawn areas and gravel patio areas. The events are proposed to be noisy and to generate a lot of traffic on Dogtown Road, which is not built for large crowds and has extremely poor ingress and egress access unto Highway 49.

4. The proposed activity or use for which the permit is sought will potentially affect the public health, safety, and general welfare as described in 17.83.020(C).

Evidence: As indicated in the letters of opposition received from surrounding property owners and the City of Angels Camp, activities similar to the ones proposed in this application have been conducted by Niemuth Manor over the last year and without approval of an AUP have already been perceived as a nuisance to a number of surrounding property owners and to the City of Angels Camp. Continuation of those activities and similar activities will not reduce the impacts on the neighbors. The AUP application seeks to legitimize through the permit process a series of five more events of similar size, type, and intensity without addressing the concerns about traffic, noise, road impacts, and fire safety described in the staff report and other evidence submitted at the hearing. Denial is appropriate under 17.83.020(C) if a proposed activity or use merely has the *potential* to affect the public health, safety, and general welfare. Because the applicant has actually already conducted similar activities, drawing numerous complaints from a large number of neighboring residents and concern from the City of Angels Camp about the ability of its road infrastructure to handle the traffic, the evidence suggests proposed uses will have not just a *potential* impact on public health, safety, and

welfare but an actual one. 5.The application of conditions to the Administrative Use Permit to protect the environment or public health, safety, or general welfare, as described in 17.83.020(D) will not resolve the concerns raised about the proposed events in the staff report, attachments, or at the hearing..

Evidence: The application of conditions to the AUP will not resolve the inconsistency of the proposed uses of the property in the RR zone. Even if the proposed uses were compatible in the RR Zone, there are no conditions that could be imposed on the project short of drastically reducing the allowable number of guests and vehicles, and drastically reducing or eliminating the amount of amplified music proposed for these events. The applicant has not indicated that he is willing to reduce the size, scope, or frequency of the proposed events or to eliminate his use of sound amplification. Instead, he has approached the County with a plan to develop a permanent outdoor event and music festival venue with amplified music, camping, and short-term on-site lodging, all of which will serve only to aggravate the impacts described above.

5. The denial of this AUP application is exempt from the California Environmental Quality Act (CEQA).

Evidence: This project is categorically exempt from CEQA pursuant to CEQA guidelines section 15270, which exempts disapproved projects from CEQA. A Notice of Exemption shall be filed if the permit denial is upheld. Should the denial of this permit be overturned in whole or in art, the Planning Department will determine what, if any, environmental document must be prepared for the permit to comply with CEQA.

Approved by the Planning Commission of the County of Calaveras, at a regular meeting of the Planning Commission held on March 23, 2023, on a motion by Commissioner _____ and seconded by Commissioner _____.

AYES:

NOES:

ABSTAIN:

ABSENT:

Chair, Planning Commission

ATTEST:

Gabriel Elliott,
Director of Planning

The project files are available for public review in the Planning Department, County of Calaveras, Government Center, 891 Mountain Ranch Road, San Andreas, CA. 95249, between the hours of 8:00 a.m. and 4:00 p.m.

Aerial Map



Attachment 2

Denial Letter dated 02-07-23



County of Calaveras

Department of Planning

Gabriel Elliott, Director of Planning
Phone (209) 754-6394 Fax (209) 754-6540
Website: www.co.calaveras.ca.us

February 7, 2023

Jonathan Niemuth
769 Dogtown Road
Angels Camp, CA 95222

**RE: Notice of Application Denial
AUP 2022-060 Niemuth Manor**

Dear Mr. Niemuth,

The Calaveras County Planning Department received a special events application from you on December 9, 2022, proposing to hold five (5) events at 769 Dogtown Road (APN 057-001-048) in Angels Camp as described in an attachment to that application. The application was deemed complete on January 13, 2023, when issues with the indemnification agreement were resolved.

Upon review of the application and relevant facts, I am informing you pursuant to Chapter 17.83.030(C) of the Calaveras County Municipal Code (CCMC) that your application is denied.

Specifically, Chapter 17.83.020(A) of County Zoning Code requires that the proposed activity or use is consistent with the General Plan and Zoning Ordinance. The subject property, located at 769 Dogtown Road with APN 057-001-048, is zoned Rural Residential (RR), the stated purpose of which is to provide lands for personal ranches in which residential use is the primary land use (Chapter 17.22.010 CCMC). While the purpose statement in this section does not alone conclusively preclude a commercial use from being proposed on an RR-zoned property, it must be considered when evaluating an application. Furthermore, any commercial uses approved pursuant to a use permit application would need to be consistent with other permitted or conditionally permitted uses in the RR zone; otherwise, the use is prohibited (see 17.04.010 CCMC).

The use of an RR-zoned property as a commercial wedding venue is not similar to any use permitted either by right or conditionally in the RR zone. The proposed events, which include four weddings (and we understand from correspondence you provided after the application was filed that additional weddings are now also being proposed). While "special events, subject to the provisions of Chapter 17.87", are a permitted use in the RR zone, the weddings proposed in the AUP are not "special events". The term "special events" is defined in CCMC 17.06.1807 to mean "an organized activity, assembly or event to which the public is invited to watch, listen or participate, and for

which compensation may be made, for the use of the site and facilities if held on private property". With the potential exception of the fireman's ball, this application proposes a series of "private" weddings that would not be open to the public at large. All the "examples" of special events described in CCMC 17.06.1807 are types of events that are typically open to the public (whether free of charge or not). Therefore, the application cannot be reviewed as an application for "special events" under CCMC Chapter 17.87.

Given the existence of a vineyard onsite, I did consider whether the proposed use could qualify as "agritourism activities not otherwise specified, >75 people", which requires a Conditional Use Permit in the RR zone. Agritourism activities involving more than 75 guests can be conditionally permitted in the RR zone *if the use would be "an incidental or accessory use to a bona fide agricultural operation"*. While the vineyard may be a "bona fide agricultural operation", the proposed use of the property as a commercial wedding venue is not "incidental" or "accessory" to the vineyard. The use of the property as a wedding and event venue with hundreds of guests, hundreds of cars, rental lodging, and live music does not require the existence of a working vineyard on the property and, as proposed, would result in an ongoing, standalone, and far more intensive commercial use of the property.

Given that the proposed use of the property is not consistent with any permitted or conditional use in the RR zone, I am unable to make the zoning consistency finding required by CCMC 17.83.020(A)

Additionally, although the parcel is large enough to accommodate the proposed events, the impact of the proposed uses coupled with their proposed frequency and intensity has the potential to disturb the general peace and welfare of the surrounding neighborhood. The proposed weddings over the course of five consecutive weekends and their associated impacts, such as the number of additional vehicles proposed to be traveling on Dogtown Road to park at the venue and the many hours of live music intended for these events, would place undue burden on the health, safety, and general welfare of the neighboring residences and personal ranches. Therefore, the proposed uses are also inconsistent with CCMC Chapter 17.83.020(C), which requires me to make a finding that the proposed use not potentially affect the public health, safety, and general welfare before approving an AUP. I cannot make this finding.

While perhaps this is peripheral to my decision concerning this particular application, you have also made it clear that this application is just the beginning and that you intend to apply for permits for an additional series of weddings in the spring and summer, these applications being stepping stones towards your investment in a much larger proposed use of the property as a permanent year-round event venue with expanded lodging and activities - an intended use that is even less consistent with the RR zone. The use of property for the types of activities you are proposing are conditionally allowed in the REC zone, which suggests that the Board of Supervisors thought about where these types of uses should and shouldn't be allowed and intentionally prohibited them in the RR zone.

While this application is denied, I would be willing to consider a standalone use permit application for the Fireman's Ball as a proposed special event under CCMC Chapter 17.87 if it is accompanied with evidence that this event will be open to the public.

Pursuant to CCMC 17.98.020, the decision of the Planning Director may be appealed to the Planning Commission by following the appeal procedures in CCMC Chapter 17.98.070 and submitting a written request, accompanied by the appropriate fee (\$500.00), within fifteen (15) calendar days from the date of the staff decision.

Should you have any questions regarding the items listed in this letter, please let me know. My email address is GElliott@co.calaveras.ca.us. You can also reach me by telephone at (209) 754-2850.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Gabriel Elliott', with a long horizontal flourish extending to the right.

Gabriel Elliott
Director of Planning

Cc: Amanda Folendorf, District Supervisor
Julie Moss-Lewis, County Counsel
Robert Pachinger, County Surveyor & Public Works Director
Doug Oliver, Building Official
Sabrina Cable, Code Compliance
Katherine Stefani, Planner I

Attachment 3

Appeal Letter dated 02-021-023

RECEIVED

FEB 21 2023

Calaveras County
Planning Department

Allyson Niemuth
Jonathan Niemuth
769 Dogtown Road
Angels Camp, CA 95222

February 21, 2023

Planning Commission of Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249

**Re: Appeal of Denial of AUP 2022-060
Niemuth Manor, LLC for Zoning Consistency Finding Pursuant to
Calaveras County Municipal Code Section 17.83.020(A)
for Special Use Permit
APN 057-001-048**

Dear Planning Commissioners:

Pursuant to Calaveras Code section 17.98.020, Niemuth Manor, LLC appeals the decision of the Director of Planning, Gabriel Elliott, that "the use of an RR-zoned property as a commercial wedding venue is not similar to any use permitted by right or conditionally in the RR zone." Enclosed please find the \$500 application fee and a copy of the letter dated February 7, 2023 from the Director of Planning – Notice of Application Denial, which is attached hereto as **Attachment 1**.

On December 9, 2022, we requested an Administrative Use Permit ("AUP") to hold weddings at 769 Dogtown Road, APN 057-001-048. The property's zoning is Rural Residential ("RR"). The request stated that weddings will be limited to a maximum of three hundred (300) guests (usually 100-150 guests) and will provide on-site parking. The AUP would be subject to conditions of approval, including hours, traffic, noise, etc. There are a handful properties in the RR Zone that are wedding venues, so we were surprised by the determination of the County. There are eight (8) properties in the RR zone that hold weddings and 7 are all smaller than 24 acres; smaller than Niemuth Manor.

In the Notice of Application it was determined that weddings are not open to the public at large. There is no such requirement in the Calaveras Code, and in fact, it is noted in the Calaveras Code that a funeral procession is a "special event." If weddings are not allowed since they are a "private event," so would birthdays, anniversaries, retirement parties, quinceaneras, Bar and Bat Mitzvahs, baby showers, to name a few. Considering every current wedding and event venue is in an RR zone, as are we, Agricultural zone or in a few cases a commercial zone,

Planning Commissioners
Re: APN 057-001-048
February 21, 2023
Page 2 of 2

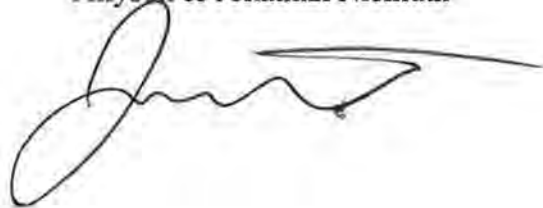
we cannot believe the Board of Supervisors intentionally prohibited wedding venues in the RR zone (also stated by Director of Planning, Gabriel Elliot). We also stated on our business application that the type of business is an "event venue" and have received a business permit for 2023 listing the business type as "miscellaneous," attached hereto as **Attachment 2**.

The limited request is to allow weddings this year and one special event (Firemen's Fundraiser Ball). It is not to add any lodging and other activities. If we determine to pursue improvements to the property, we will apply for a Conditional Use Permit and rezoning if needed. We are hereby requesting the planning commission determine what permit, if any, is required for a wedding or any other "private event" in the RR zoning to proceed with our scheduled events. We also reserve the right to supplement our appeal for the Planning Commission with additional information prior to the hearing.

Thank you for your consideration and we look forward to submitting additional documentation and information as required. We respectfully request a hearing date as early as possible.

Very truly yours,

Allyson & Jonathan Niemuth

A handwritten signature in black ink, appearing to be a stylized 'J' followed by a long horizontal stroke, representing the signature of Allyson & Jonathan Niemuth.



County of Calaveras Department of Planning

Gabriel Elliott, Director of Planning
Phone (209) 754-6394 Fax (209) 754-6540
Website: www.co.calaveras.ca.us

February 7, 2023

Jonathan Niemuth
769 Dogtown Road
Angels Camp, CA 95222

**RE: Notice of Application Denial
AUP 2022-060 Niemuth Manor**

Dear Mr. Niemuth,

The Calaveras County Planning Department received a special events application from you on December 9, 2022, proposing to hold five (5) events at 769 Dogtown Road (APN 057-001-048) in Angels Camp as described in an attachment to that application. The application was deemed complete on January 13, 2023, when issues with the indemnification agreement were resolved.

Upon review of the application and relevant facts, I am informing you pursuant to Chapter 17.83.030(C) of the Calaveras County Municipal Code (CCMC) that your application is denied.

Specifically, Chapter 17.83.020(A) of County Zoning Code requires that the proposed activity or use is consistent with the General Plan and Zoning Ordinance. The subject property, located at 769 Dogtown Road with APN 057-001-048, is zoned Rural Residential (RR), the stated purpose of which is to provide lands for personal ranches in which residential use is the primary land use (Chapter 17.22.010 CCMC). While the purpose statement in this section does not alone conclusively preclude a commercial use from being proposed on an RR-zoned property, it must be considered when evaluating an application. Furthermore, any commercial uses approved pursuant to a use permit application would need to be consistent with other permitted or conditionally permitted uses in the RR zone; otherwise, the use is prohibited (see 17.04.010 CCMC).

The use of an RR-zoned property as a commercial wedding venue is not similar to any use permitted either by right or conditionally in the RR zone. The proposed events, which include four weddings (and we understand from correspondence you provided after the application was filed that additional weddings are now also being proposed). While "special events, subject to the provisions of Chapter 17.87", are a permitted use in the RR zone, the weddings proposed in the AUP are not "special events". The term "special events" is defined in CCMC 17.06.1807 to mean "an organized activity, assembly or event to which the public is invited to watch, listen or participate, and for

which compensation may be made, for the use of the site and facilities if held on private property". With the potential exception of the fireman's ball, this application proposes a series of "private" weddings that would not be open to the public at large. All the "examples" of special events described in CCMC 17.06.1807 are types of events that are typically open to the public (whether free of charge or not). Therefore, the application cannot be reviewed as an application for "special events" under CCMC Chapter 17.87.

Given the existence of a vineyard onsite, I did consider whether the proposed use could qualify as "agritourism activities not otherwise specified, >75 people", which requires a Conditional Use Permit in the RR zone. Agritourism activities involving more than 75 guests can be conditionally permitted in the RR zone *if the use would be "an incidental or accessory use to a bona fide agricultural operation"*. While the vineyard may be a "bona fide agricultural operation", the proposed use of the property as a commercial wedding venue is not "incidental" or "accessory" to the vineyard. The use of the property as a wedding and event venue with hundreds of guests, hundreds of cars, rental lodging, and live music does not require the existence of a working vineyard on the property and, as proposed, would result in an ongoing, standalone, and far more intensive commercial use of the property.

Given that the proposed use of the property is not consistent with any permitted or conditional use in the RR zone, I am unable to make the zoning consistency finding required by CCMC 17.83.020(A)

Additionally, although the parcel is large enough to accommodate the proposed events, the impact of the proposed uses coupled with their proposed frequency and intensity has the potential to disturb the general peace and welfare of the surrounding neighborhood. The proposed weddings over the course of five consecutive weekends and their associated impacts, such as the number of additional vehicles proposed to be traveling on Dogtown Road to park at the venue and the many hours of live music intended for these events, would place undue burden on the health, safety, and general welfare of the neighboring residences and personal ranches. Therefore, the proposed uses are also inconsistent with CCMC Chapter 17.83.020(C), which requires me to make a finding that the proposed use not potentially affect the public health, safety, and general welfare before approving an AUP. I cannot make this finding.

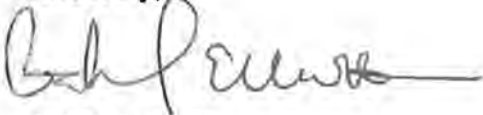
While perhaps this is peripheral to my decision concerning this particular application, you have also made it clear that this application is just the beginning and that you intend to apply for permits for an additional series of weddings in the spring and summer, these applications being stepping stones towards your investment in a much larger proposed use of the property as a permanent year-round event venue with expanded lodging and activities - an intended use that is even less consistent with the RR zone. The use of property for the types of activities you are proposing are conditionally allowed in the REC zone, which suggests that the Board of Supervisors thought about where these types of uses should and shouldn't be allowed and intentionally prohibited them in the RR zone.

While this application is denied, I would be willing to consider a standalone use permit application for the Fireman's Ball as a proposed special event under CCMC Chapter 17.87 if it is accompanied with evidence that this event will be open to the public.

Pursuant to CCMC 17.98.020, the decision of the Planning Director may be appealed to the Planning Commission by following the appeal procedures in CCMC Chapter 17.98.070 and submitting a written request, accompanied by the appropriate fee (\$500.00), within fifteen (15) calendar days from the date of the staff decision.

Should you have any questions regarding the items listed in this letter, please let me know. My email address is GElliott@co.calaveras.ca.us. You can also reach me by telephone at (209) 754-2850.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gabriel Elliott', with a long horizontal flourish extending to the right.

Gabriel Elliott
Director of Planning

Cc: Amanda Folendorf, District Supervisor
Julie Moss-Lewis, County Counsel
Robert Pachinger, County Surveyor & Public Works Director
Doug Oliver, Building Official
Sabrina Cable, Code Compliance
Katherine Stefani, Planner I

Calaveras County Treasurer-Tax Collector's Office
CALAVERAS COUNTY BUSINESS LICENSE
891 Mountain Ranch Road, San Andreas CA 95249

Mailing Address:

DBA: Nemuth Manor
Allison Bennis
769 Dogtown Rd
Angels Camp, CA 95222

VALID Physical Location:

Address: 769 DOGTOWN RD
City: ANGELS CAMP
APN: 057001048

License #: BL-0019172

PLACE THIS LICENSE IN A CONSPICUOUS PLACE

Valid From: 2/26/2021

Valid To: 12/31/2023

Date Paid: 1/24/2023

Amount Paid: \$29.00

Business Type: MISCELLANEOUS

Conditions:**DISCLAIMER**

Subject to Revocation by Board of Supervisors - A business license is hereby issued in conformity with provisions of an ordinance adopted by the Board of Supervisors of Calaveras County.

Attachment 4

Surrounding property owner's letters

December 20, 2022

John Franklin, Planner I
Calaveras County Planning Department
891 Mountain Ranch Road
San Andreas, Ca. 95249-9709

Dear Mr. Franklin:

This is in response to the letter I received from you asking for my input on the Special Event Master AUP Master event application of Niemuth Manor to hold 5 events over a two month period starting January 28. I have no doubt many more "Special Events" are in the works and future applications will be submitted.

As you know I previously filed a complaint on what is a nuisance to not only myself by all neighboring properties of numerous events held at the property last year. I have not gotten a response on the illegal non-Conforming zoning use of the property to be run as a commercial outdoor event arena given the Rural Residential zoning. I need an answer from you how the events can even occur from a zoning perspective.

The application as proposed is the first of many more that will occur in the future I am sure and as the weather warms up I have no doubt the nuisance will continue and only get worse. If the ask was for a "one off single event" for a family wedding etc that is different than the application suggests. A commercial outdoor arena event center is the issue, the AUP application is more form over substance.

We all want to be good neighbors and all owners should comply with the zoning and intended use of the properties we own and use. Basic quiet enjoyment of our property is all we ask. Ask yourself this question, if an outdoor arena was set up in your backyard with events constantly occurring how would you react? I am not alone as a concerned neighbor although I have been the most engaged. I have no doubt all the neighbors affected by this event center as it is proposed will stand up to protect their property rights and the quiet enjoyment of their residences.

Please respond to me in detail how these events are compliant with zoning in the first place. As well, there is no doubt a serious issue on the safety of 300 people gathering in a constricted area from a fire and public safety perspective with a single small driveway as the point of ingress & Egress.

The bottom line in response to your letter is I absolutely am against the proposed AUP Master Event application.

Sincerely

Stuart Raggio



My name is John Eudy, we are immediate neighbors to the north of Stuart Raggio and are approximately 150 yards or so from the "event center" of Niemuth Manor. I filed a complaint on line but did not receive a letter from you on the AUP application. I wholeheartedly agree with Mr. Raggio's assessment in his letter above. Please accept my signature below as full support of Mr. Raggio's position on the matter and to reiterate, how can this possibly be allowed given the nuisance and noise the commercial event center creates in a Rural Residential area. Mr Niemuth should move his business to an area that is Zoned and well thought out for his use.

John Eudy
1151 Dogtown Road
PO Box 273(mail is not delivered to our house)
Altaville, Ca. 95221



12/20/2022

From: [Jessamy German](#)
To: [John Franklin](#)
Subject: 2022-060 Special Event Master AUP for Niemuth Manor
Date: Thursday, December 22, 2022 6:25:59 AM

CAUTION: This email comes from outside the County. Do not click on links or open attachments unless you recognize the sender and know the content is safe. If you are unsure, use the Phish Alert button.

Dear John Franklin,

We live accross the street for the above proposed special event venue. We are confused as to the request for the 4 events as well as the notification that there will be "temporary" structures for the event. We currently see many temporary structures on the property that have been erected and there have been over 6 events that we could see many cars entering and exiting to as well as we hear loud speaker announcing and music. We would have expected this notification to have been sent out when permits for lodging, business license and transient tax requirements alerted the County to an event venue which has been going on since early this year. There have been many of those events mentioned where a collapsable sign was set literally in the middle of HWY 49 at Dogtown Rd to announce the event!

We certainly believe in people's right to enjoy their property but there are County Codes and regulations set for appropriate steps to be taken PRIOR TO erecting tents and making a field a parking lot by adding an unsightly berm along the road for all to see. Fund raisers are always welcomed for the causes they help fund and there is a certain amount of extra noise and traffic expected and willingly accepted, but there is not the expectation by the Niemuth's of only four events to come out of this use permit so what exactly happens when the other events go on that aren't listed on your letter? They still have their website up advertising multiple types of stays and events to rent/purchase. There appears to be a lack of desire on their part to take the necessary steps to run a business properly on this property and it is a "we will do it wrong until we are made to do it right" attitude.

In short, from many aspects, it is a venue we would prefer not to see approved.

Sincerely,

Jeffrey and Jessamy German
830 Dogtown Rd.
Angels Camp, Ca 95222

From: [Jacque Rodig](#)
To: [John Franklin](#)
Subject: 2022-060 Special Event Master AUP for Niebuhr Manor
Date: Friday, December 23, 2022 5:03:08 PM

CAUTION: This email comes from outside the County. Do not click on links or open attachments unless you recognize the sender and know the content is safe. If you are unsure, use the Phish Alert button.

Mr Franklin,

I am against the Niemuths having so many events and the large number of people. It is already getting quite busy on our street and it seems the out of town folks think our country roads are for going fast. The noise is isn't optimum either. They had so events this year and I can't imagine how many more they will have next year. I know you only show 4 but is that until they get a full license? Why didn't they get one for earlier this year when they had all those other events?

If my opinion matters I say no.

Jacque Rodig
726 Dogtown Rd.

Sent from my iPhone

John Franklin

From: landrew1943@aol.com
Sent: Monday, December 19, 2022 3:18 PM
To: John Franklin
Subject: 2022-060 AUP for Niemouth Manor

CAUTION: This email comes from outside the County. Do not click on links or open attachments unless you recognize the sender and know the content is safe. If you are unsure, use the Phish Alert button.

I will later send you email with attached WORD letter with my detailed comments regarding the subject AUP. I am swamped with xmas stuff and prepping for a long xmas road trip. I will try to finish my detailed comments before leaving, but a hard copy letter may not reach you before the 28th.

For now I will say the following: I live next to the Niemuth Manor and I want to formally advise I strongly object to issuing the subject special use permit for Niemuth Manor. The amplified noise from their events is very disturbing and greatly exceeds the 50 db property line limit in the county ordinances. It has also scared away a potential motivated buyer for my property, so there is a loss of property value issue here. I have several more comments which I will include in my letter.

Lewis Bielanowski PE
1455 Lakeside Dr.
Angels Camp

Lewis Bielanowski PE
Mobile: 510-760-1484
Email: landrew1943@aol.com

Mailing:
PO Box 490
Altaville, CA 95221

Street Address:
1455 Lakeside Drive
Angels Camp, Ca 95222

Date: December 27, 2022

To: County of Calaveras
Planning Department

Attn: John Franklin
Planner 1

Subject: 2022-060 Special Event Master AUP for Niemuth Manor and General Comments About For-Profit Wedding/Event Venues in Our Area

This letter contains my comments to the AUP for Niemuth Manor, but this is only part of a bigger problem we have with outdoor amplified music noise and traffic/parking issues created by the two for-profit wedding/event venues in our area. The other problem venue is Lakeside Weddings and Events (LWE), located at 1253 Lakeside Drive. These two wedding/event venues are only half mile apart and I live between them, along with 4 other households. But, LWE is closer to my home with only few hundred feet of lake water between us, so it is a bigger problem for me. My comments below apply to both of them, unless indicated otherwise:

- 1) Regarding the first subject, I strongly oppose the AUP for Niemuth Manor, primarily due to the loud outdoor amplified music and loudspeaker noise coming from their events. I, and other neighbors, want these two for-profit wedding/event venues to be permanently shutdown, no exceptions, such as this Niemuth AUP application.
 - a) I note that at a local homeowners meeting about two years ago, the owners of Niemuth advised they plan to build a soundproof "party barn" so the noise from their events doesn't bother their neighbors. Instead, they built a large, flimsy, circus style tent to hold their events.
- 2) During our annual six months of mild weather, virtually every Saturday, and frequently Fridays and Sundays, one or both of these wedding/event venues is blasting amplified party dance music at rock-concert levels. These party episodes usually start late afternoon and drag-on for 4 to 6 hours.
 - a) I have a very nice patio with great view of lake and vineyards and woodlands. But it is unusable during these amplified music periods. During the best time of year for weekend outside entertaining, I can't do that, because the noise is so unpleasant and disturbing.
- 3) The noise and excessive vehicle traffic from these two event venues is ruining the character of an area with a long history of being a quiet, peaceful, rural residential and light agricultural area. I note that some of us most affected by these wedding/event venues have already filed formal complaints with Calaveras Code Enforcement Department.
- 4) The outdoor loudspeakers and amplified party music level from these venues greatly exceeds some of the ordinances in Chapter 9.02, Noise Control, in the Calaveras County Municipal Code. In particular the property line limit of 50 dba noise level.
 - a) The LWE venue typically plays the bass level of their amplified dance music so high it rattles my windows.
 - b) You can't hold a normal conversation outside my home during these noisy events.

Lewis Bielanowski PE
Mobile: 510-760-1484
Email: landrew1943@aol.com

Mailing:
PO Box 490
Altaville, CA 95221

Street Address:
1455 Lakeside Drive
Angels Camp, Ca 95222

- 5) I have called the sheriff department 3 times over the past 3 years to come over and witness the disturbing noise level from these two party venues, and hopefully take a dba reading to verify they are exceeding the 50 dba limit. Although couple of times a deputy called and said on the way, no deputy, nor any other county official, has ever showed up to witness/document this noise problem.. I note that sheriff Basilio recently called and personally promised the next time someone will show up.
- 6) The noise from these two for-profit party venues obviously has a negative impact on the value of the properties located near these venues. Some of the most affected properties, including mine, are appraised around the million dollar range (check Realtor.com). It is doubtful anyone shopping in this price range would buy a property where they will be disturbed by rock-concert level party music 20 to 30 weekends per year. If these two venues aren't promptly shutdown, we will have no choice but to consult with legal counsel about damages suffered due to the county not enforcing its own noise control ordinances and zoning regulations.
- 7) The following applies only to LWE: Lakeside Drive is a dead-end road off Dogtown Road and is used by 6 households, including me, as our only egress in and out. Unfortunately, Lakeside passes through the LWE parking area before intersecting Dogtown. The event parking at LWE is not controlled and occasionally overflows everywhere, sometimes blocking our egress on Lakeside Drive. This creates a dangerous situation should an emergency ever develop at one of the 6 households down Lakeside Drive, since this is the only emergency vehicle access to these households.

Regards,

Lewis Bielanowski PE

December 27, 2022

Mr. Franklin

Calaveras County Planning Department

891 Mountain Ranch Road

San Andreas, CA 95249

Mr. Franklin,

I am writing to you regarding the 2022-060 Special Event Master AUO for Niemuth Manor.

My brothers and I have ownership in two parcels of land zoned Rural Residential that are accessed off Dogtown Road. APN # 057-001-047 is directly adjacent to the Niemuth parcel. APN # 057-001-046 is accessed across the first parcel by easement along the common fence line we share with Niemuth.

We ask that the County not issue the Special Event Permit given the fact that Niemuth is currently in violation of County ordinances as they apply to Rural Residential zoning. Niemuth has erected several (approximately 5) "glamping" tents or yurt like structures on wooden platforms along with a large campfire pit visible and just across the fence from our property. These could be considered at the very least, a safety and fire hazard for customers of his but also a potential fire hazard to us. The visual and potential noise issues these unpermitted additions to the property negatively affects the value of our properties.

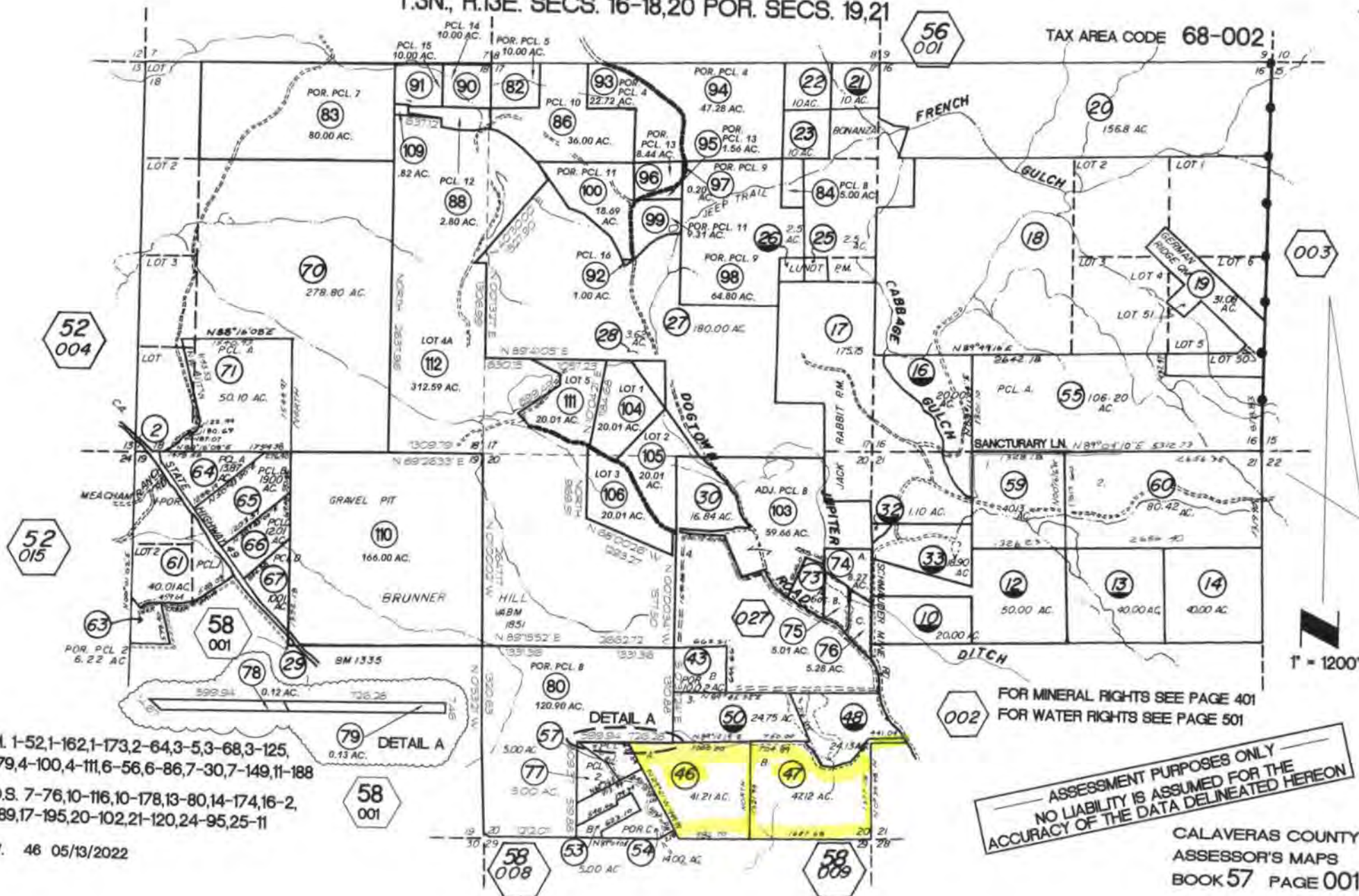
In addition to what Mr. Niemuth has done on his own property, he has also come on to our property entrance off Dogtown Road to access the less accessible areas of his property. He has removed a portion of our common fence without our agreement and left it as such.

We hope to be good neighbors with Mr. Niemuth going forward but if the County issues Special permits now before rectifying the current violations, it is likely the business venture will continue to be problematic for all neighboring property owners.

We appreciate the opportunity to comment. Please keep us informed on this process and any other pertinent information. Our email is whittleranch@gmail.com The mailing address is PO Box 997 Altaville, CA 95221

Sincerely, *Donald Rex Whittle*

Donald Rex Whittle



FOR WATER RIGHTS SEE PAGE 501

ASSESSMENT PURPOSES ONLY
NO LIABILITY IS ASSUMED FOR THE
ACCURACY OF THE DATA DELINEATED HEREON

CALAVERAS COUNTY

CALAVERAS COUNTY
ASSESSOR'S MAPS
BOOK 57 PAGE 001

December 27, 2022

Mr. Franklin
Calaveras County Planning Department
891 Mountain Ranch Rd.
San Andreas, CA 95249

Mr. Franklin,

I am writing you in regard to the 2022-060 Special Event Master AUO for Niemuth Manor.

My Wife and I live one lot away from Mr. Niemuth's Event Business, within 100 Yds of the giant temporary tent he has pitched and left up for over a year. Mr. Niemuth's events are very loud and disruptive, to the point where we can't sit in our backyard due to the excessive noise of approximately 300 people and a DJ blasting us out of our yard. At times we can feel the vibration of the music in our house and the windows shake. This noise also stresses out our animals (steers, horses, sheep, and dogs). This happened on a regular basis over the last year- every Friday, Saturday, Sunday and some weekday afternoons.

Mr. Niemuth is running a full time business in a Rural Residential Neighborhood, if given these permits for the next 5 events I feel this will set a precedent and encourage him to apply for more. We are asking the county to take action and stop this unpermitted business, please. I also do not believe this address is their primary address, Mrs. Niemuth works out of the area during the week and Mr. Niemuth stays with friends. It is their ultimate goal to run this property as an Airbnb and event venue. I am asking the county to please stop this illegal and intrusive business. My neighbors and I worry with this many people parking in the fields there will be a fire or someone will be injured.

We moved here and invested in our property to be in a country setting for peace and quiet, not the continual noise of an amphitheater, parties and wedding events. I must also point out the amount of traffic and stress that 150 cars put on our small country road, I feel this is not safe with only one way in and out. We have bicyclist's, runners, joggers and walkers on our road every day, I feel this is a huge safety concern.

I also do not believe the camping sites that have been set up are sanitary, safe, or legal. I am urging you to not issue this permit, a business like this does not belong in our quiet small friendly neighborhood.

Thank you for the opportunity to comment and look forward to hearing from the county on this matter.



Stuart Raggio
1011 Dogtown Rd.
Angels Camp, Ca 95222

From: [Bailey Orpurt](#)
To: [John Franklin](#)
Subject: Niemuth Application Letter
Date: Wednesday, December 28, 2022 9:03:37 AM
Attachments: [Niemuth Application Letter.pages](#)

CAUTION: This email comes from outside the County. Do not click on links or open attachments unless you recognize the sender and know the content is safe. If you are unsure, use the Phish Alert button.

Below I have attached the application response letter. I will also add it to the body of this email just in case the link does not work. Thank you for the opportunity to respond to this request.

December 26, 2022

To Whom It May Concern,

We are responding in regards to the application for 2022-060 Special Events Master AUP for Niemuth Manor. We strongly oppose this application for a multitude of reasons which are stated below.

As stated, all events are to be held in the event tent. A temporary structure that has been in place for well over a year. Originally the applicant, Mr. Niemuth, stated that this structure would only be up for a few events that were coming up. Before this statement there was leveling of the hillside, as well as gravel and dirt hauled in to prepare an area for the tent (approximately 50' x 100') to be assembled. All without any kind of permit. There was also an additional, smaller, structure built near the tent, late summer. The location of the tent being so close to our home that we are able to hear the conversations and laughter of the event guests from our back porch with ease.

In addition to the tent being so close to our home, the parking that is available to the guests is just a few feet from our fences. Behind those fences are our livestock. With guests being so close to fences causing horses to become spooked and guests trying to reach over and through the fence to touch our animals. This causing a huge liability to us. Although, our livestock are not the only ones disturbed by the events. We have dogs that have been greatly affected, more so than the livestock. The loud continuous music late into the night causing our dogs to experience anxiety. One to the point of having to administer medication when the music begins, to help calm her and make the loud noises easier for her to get through. An additional cost and stress that would generally not be experienced living in a rural-residential area. Or living here in this exact residence prior to Niemuth Manor beginning to host a multitude of events. While our animals are greatly affected, we also are experiencing the side effects from not properly maintained roads. While the application states that parking will be available for up to 170 vehicles, which will all be traveling on a dirt/gravel road along side our fence with no water maintenance. Causing constant dust flowing directly onto our front porch.

The sound amplification, in the past, has gone well past 10 o'clock on multiple occasions. The sound becoming so loud that the windows of our home rattle for hours and making it nearly impossible to drown out the sound. From inside our home we are clearly able to hear the music playing. This especially frustrating on nights where we have to be up early the next morning for work. In addition to the times when there has been events multiple nights in a row (Up to 4 consecutive nights). There is no longer a quiet, relaxing weekend living here. They are now filled with loud noise and people right outside our kitchen window. In addition to destroying a peaceful living in the country surrounded by what used to be the sounds of nature, this event location has affected the property value of our home and those who have property all around us. If we were to sell, that is not something that new buyers would like when looking into purchasing a new home. People live out here to be away from the noise and people in neighborhoods. To have animals and property where it is quiet and relaxing. Unfortunately, for all homes near Niemuth Manor this is no longer a reality.

I ask that when considering this application to take in to account lives and homes of those around Niemuth Manor. But do not take into consideration only the people, also, the livestock and wildlife that are affected as well as the additional traffic brought to a rural road. And ask yourself, would you want to lay in bed at night when you have work early the following morning unable to fall asleep due to the music being played so loudly that your windows are rattling? This seems very unfair to impose on any neighbor.

Sincerely,

Chad Testa

----- Forwarded message -----

From: Tony Ferreira <tonyferreira055@gmail.com>

To: Jfranklin@co.calaveras.ca

Cc:

Bcc:

Date: Tue, 27 Dec 2022 13:25:03 -0800

Subject: Special event use permit at Niemuth Manor

I am a resident here for 30 years. Have seen many changes throughout the years, some good some bad. I am very conflicted of my new neighbors starting this new business. In one hand it's their property, that they spend a lot of money to purchase, I really believe in property owners rights ,to do with their property whatever they wants to do. However on their own, they have changed this wonderful and peaceful neighborhood that we all love and treasure for ever. No longer can we enjoy our hard earned weekends from work with a quiet and peaceful noise free environment. With numerous tents some huge,and 4 or 5 smaller ones ,it's a visual pollution as well. As far as traffic, they are planning on a 75 car parking area. This is not what my wife and myself moved here for. We moved here for the peace and quiet, for the oaks and wild life, not for a party resort right next door. I'm confident that the county will make a just and fair decision for all. GOD bless

From: [Gabriel Elliott](#)
To: [Katherine Stefani](#)
Subject: FW: Denial letter to Mr. Niemuth at 769 Dogtown Road
Date: Monday, February 27, 2023 10:55:56 AM

FYI.

Gabriel

From: John Eudy <johneudy77@gmail.com>
Sent: Sunday, February 26, 2023 9:10 AM
To: Gabriel Elliott <GElliott@co.calaveras.ca.us>; Sabrina Cable <SCable@co.calaveras.ca.us>
Cc: Robbin Eudy <robbineudy@sbcglobal.net>; stuartraggio@gmail.com
Subject: Re: Denial letter to Mr. Niemuth at 769 Dogtown Road

CAUTION: This email comes from outside the County. Do not click on links or open attachments unless you recognize the sender and know the content is safe. If you are unsure, use the Phish Alert button.

Mr Gabriel & Ms Cable-

My apologies for needing to inform you that Mr. Niemuth violated the Denial letter that was issued to him and had a large event yesterday, it appeared to be a wedding. Besides the noise from the music and the heavy traffic the event had Fireworks.

Sorry for dragging you in again just wanted you to know he has violated the denial order and I have no doubt he will continue to.

John & Robbin Eudy
1151 Dogtown Road

On Feb 12, 2023, at 8:00 PM, Gabriel Elliott <GElliott@co.calaveras.ca.us> wrote:

Good evening, Mr. Rudy. You are right in your suspicions that the Niemuths may not respect the decision stipulated in the denial letter. If any events are held, please report to the county code compliance department who were copied in the letter.

On my part, I would request that code compliance remain vigilant for any activities that may take place on the days the private weddings are scheduled. I will also look into what role the sheriff's department may play in matters of this nature, if any.

As a property owner, you have discretion in the type of actions you take to protect the peace in your neighborhood.

Should the AUP denial be appealed to the Planning Commission, you and everyone who wrote a complaint letter will be notified.

Thank you.

Gabriel Elliott
Director of Planning

Get Outlook for iOS<<https://aka.ms/o0ukef>>

From: John Eudy <johneudy77@gmail.com>
Sent: Saturday, February 11, 2023 1:20:24 PM
To: GElliott@co.calaveras.ca.us <GElliott@co.calaveras.ca.us>
Cc: Robbin Eudy <robbineudy@sbcglobal.net>; stuartraggio@gmail.com <stuartraggio@gmail.com>
Subject: Re: Denial letter to Mr. Niemuth at 769 Dogtown Road

CAUTION: This email comes from outside the County. Do not click on links or open attachments unless you recognize the sender and know the content is safe. If you are unsure, use the Phish Alert button.

Gabriel-

I just received in the mail today directly from you a copy of the letter, thank you for keeping me in the loop.

Sincerely

John Eudy

> On Feb 11, 2023, at 9:09 AM, John Eudy <johneudy77@gmail.com> wrote:
>
> Gabriel-
>
> My neighbors forwarded to me a copy your letter of denial to Mr. Niemuth on his request to operate his Rural Residential property as a Commercial Event Center. My wife Robbin and I are neighbors of Mr. Niemuth residing at 1151 Dogtown Road.
>
> Thank you for thoroughly considering the Zoning and General Plan aspects of the Rural Residential area we live in and your thoughtful and detailed response.
>
> In the event Mr. Niemuth does not follow the details of your decision and goes ahead with any of the planned events that were denied (or others not applied for), what is our recourse? Do we simply call the Sheriff followed up with letters and documentation of the illegal events? I do hope he respects your decision and does not violate the conditions of the denial letter.
>
> In the event he appeals your decision to the Planning Commission I assume there will be a public hearing and all those who are affected in our Rural Residential neighborhood by his Commercial Venue Operation will have an opportunity to engage.

>
> Any questions or if you need any further information please let us know.
>
> Sincerely
>
> John & Robbin Eudy
> 1151 Dogtown Road
> PO Box 273
> Altaville, Ca. 95221
>
> Phone #'s
> House. 209-736-0433
> Cell. 925-698-1708

Disclaimer

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From: [Jessamy German](#)
To: [Katherine Stefani](#)
Subject: Re: AUP 2022-060 Determination Letter
Date: Saturday, February 25, 2023 4:48:55 PM

CAUTION: This email comes from outside the County. Do not click on links or open attachments unless you recognize the sender and know the content is safe. If you are unsure, use the Phish Alert button.

Thank you so much for sending this email notification along with your ruling and all your clear explanation to the Niemuth's of why their events were not appropriate or approved. However, as I mentioned before when asked of our stand on their request for a wedding venue, they feel they are above county regulations, zoning and ordinances and proved as much discarding your ruling and reasons by continuing to host a wedding this weekend (who would think in this crazy weather?!). I suspect the reparation for this blatant action is simply a fine, one which would easily be absorbed by the compensation received for providing the venue (<https://pricing-sheets.s3.amazonaws.com/3bc1412a-b5da-41cf-8756-ddad55719772/07c5113af3aef82d5f0eddc42b37c12e674db71d/aff4255e-c239-4d3a-8c15-6d51cf894bec>) without regards to the disruption to the neighbors or going against your ruling. Thus, they continue on with their unprincipled ways.

So discouraging-

Jessamy & Jeffrey German

Sent from my iPhone

On Feb 8, 2023, at 3:57 PM, Katherine Stefani <KStefani@co.calaveras.ca.us> wrote:

Good afternoon,

You are receiving this email because the Calaveras County Planning Department received a public comment from you regarding AUP 2022-060. Please see the attached decision made by the Planning Director regarding the application. I have also sent a physical copy of the determination to the most current mailing address in county records for your property address. Let me know if you have any questions.

Best regards,

Katherine Stefani
Planner I
Calaveras County Planning Department

(209)754-6394

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<AUP 2022-060 Denial Letter.pdf>

From: landrew1943@aol.com
To: [Katherine Stefani](#)
Cc: [Planning Web Account](#)
Subject: Fwd: Respose to AUP 2022-060 for Niemuth Manor
Date: Monday, February 13, 2023 1:11:35 PM

CAUTION: This email comes from outside the County. Do not click on links or open attachments unless you recognize the sender and know the content is safe. If you are unsure, use the Phish Alert button.

Sorry again. Forgot the email subject. Added referral email for JFranklin. Guess getting senile.
Lew

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

From: landrew1943@aol.com
To: KStefani@co.calaveras.ca.us <KStefani@co.calaveras.ca.us>
Cc: Jfranklin@co.calaveras.ca.us <Jfranklin@co.calaveras.ca.us>
Sent: Mon, Feb 13, 2023 12:52 pm

Hello Katherine,

Thanks for the update, and good news about enforcing our Municipal Codes in order to stop the noise and other disturbances caused by Niemuth. We greatly appreciate your help in restoring our enjoyment of our homes and the peaceful, rural character of our neighborhood, not to mention our property values.

Would you please give us a little more information on this matter:

1. Was "Lakeside Weddings and Events" given any warnings or rulings like this?? They were listed along with Niemuth in our several complaints. They are only half mile from Niemuth, and creates just as much noise and traffic and other disturbances as Niemuth.
2. We are concerned that the possible agritourism or open-to-public event loopholes you mentioned will be pursued in some way and allow these disturbing operations to continue under these disguises. What can we or you do to ensure this does not happen?? I might mention that the small Niemuth vineyard is farmed by another entity.
3. Niemuth is in a wooded, high risk fire area, with many residences nearby (including the high density housing at "Country Estates"). If Niemuth continues in some form, we request that the County Fire Marshall and Cal Fire inspect Niemuth for adequate fire safety at their location. Do the yurts and circus tent have sprinklers?? Are there adequate fire hydrants and fire water supply for the increased fire risk??
4. Has the county assessor's office reassessed Niemuth for the extensive amount of property development, improvements and additions (including several guest yurts, and a huge circus style tent)?? Similarly for Lakeside, but to lessor degree??
5. Do these two party venues have appropriate licenses for their for-profit event business and for serving alcohol for profit?? These are commercial operations that serve copious amounts of alcoholic beverages at their events.

I have additional comments, but this is already too long for an email. Feel free to forward this email to as many others as you wish.

Regards,
Lew Bielanowski, PE

1455 Lakeside Dr.
Angels Camp
landrew1943@aol.com

.

Attachment 5

Letter from City of Angels Camp dated 03-08-23



CITY HALL

CITY OF ANGELS PO Box 667, 200 Monte Verda St. Suite B, Angels Camp, CA 95222 P: (209) 736-2181

March 8, 2023

Calaveras County Planning Commission
890 Mountain Ranch Road
San Andreas, CA 95247

VIA E-Mail to: Gabriel Elliott

To Mr. Elliott:

This letter is in response to the Notice of Public Hearing for 2023-010 Appeal of AUP 22-060 for Jonathan and Allyson Niemuth dba Niemuth Manor.

The City was notified due to the property being within the City's Secondary Sphere of Influence. The staff has reviewed the project, utilizing a similar purview we would with any project within our city limits on impacts or concerns on resources, health and safety, and infrastructure. The following are the concerns:

Law Enforcement:

Any alcohol served would require an ABC permit. If alcohol is served or allowed and over 100 people are in attendance, private security be need to be present. The Angels Camp Police Department does not have the capacity to be present to monitor. No alcohol should be provided after 10 pm. Parking should be on the premises to not congest public streets (Dogtown Road). Music should end at 10 PM (or whatever noise ordinance is currently in place) to avoid residential calls to law enforcement.

Fire Marshal/Building:

There are concerns with access and egress from the event site as well as the structures themselves. Water availability for fire flow capabilities for the event site is needed. All structures would need to comply with building/fire codes for commercial properties. There would need to be a fire safety plan to address the open bodies of water, crowd size and evacuation, emergency medical needs, electrical power supplies and generators, vegetation management, trash management and enclosures, address labeling, and event site mapping. There are several ADA concerns related to parking, routes, and restrooms. Tent structures would need to be structured for stability and have all the proper exiting, in addition to code-compliant electrical, plumbing, and mechanical elements.



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Mayor Alvin Broglio • **Vice Mayor** Jennifer Davis-Herndon • **Council Members** Caroline Schirato, Gretel Tiscornia, Isabel Moncada

City Administrator Rebecca Callen • **City Attorney** Doug White, Churchwell White, LLP



CITY HALL

CITY OF ANGELS PO Box 667, 200 Monte Verda St. Suite B, Angels Camp, CA 95222 P: (209) 736-2181

Overall:

There are several concerns with the venue causing undue burdens on City resources. While the property is technically located outside of the city limits, the City staff would be the closest to responding in the case of an emergency or necessary response for life and safety. In addition, depending on the size of the event, Dogtown road is not built for large crowds and has extremely poor ingress and egress access onto Highway 49. This creates a traffic burden at that cross-section and the additional use of Dogtown Road that is in the City limits is not receiving mitigation funding for those repairs or restoration activities that would be required due to the increased use as would normally occur with permit fees collected within the City.

Please call me if you have any questions or require additional information.

Sincerely,

Rebecca Callen
City Administrator



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Mayor Alvin Broglio • Vice Mayor Jennifer Davis-Herndon • Council Members Caroline Schirato, Gretel Tiscornia, Isabel Moncada

City Administrator Rebecca Callen • City Attorney Doug White, Churchwell White, LLP

Attachment 6

Letter from Abbott & Kindermann, Inc. received 1-30-23

January 30, 2023

VIA EMAIL

Julie Moss-Lewis, Deputy County Counsel
County of Calaveras
Office of the County Counsel
891 Mountain Ranch Road
San Andreas, CA 95249
jmoss-lewis@co.calaveras.ca.us

**Re: Niemuth Manor LLC – Administrative Use Permit for Weddings, Fireman’s
Ball Fundraiser and Summer Music by the Lake Series and Long-Term
Entitlements
APN: 057-001-048**

Dear Ms. Moss-Lewis:

Abbott & Kindermann, Inc. represents Niemuth Manor LLC (“**Niemuth**”) in the above matter. As you and I discussed on the phone, we appreciate your assistance in this matter and look forward to working with Calaveras County to address all compliance issues. We perceive our compliance strategy as involving two phases. First, we are addressing short-term authority to continue with scheduled events. Second, we are working on the submission of an application for long-term approval of entitlements for a final Project which includes the existing uses and some additional uses. We anticipate requesting a pre-application meeting with the County prior to submission of any application for the second phase. Mr. Niemuth is complying with the items requested by the Building Department Director Doug Oliver, at the January 6, 2023 meeting and is working directly with Mr. Oliver on these items.

I. BACKGROUND

Niemuth is a 24-acre parcel with a General Plan designation of Rural Transition B, and a Zoning designation of Rural Residential. It contains a private residence, a 5-acre lake on the back of the property and four (4) acres of vineyard. The address is 769 Dogtown Road, Angels Camp, California (“**Property**”). The Property is five (5) minutes from downtown Angels Camp and ten (10) miles from Murphys. The proprietors, Jonathan Niemuth and Allyson Niemuth, live in the 2,500 square foot residence, Mrs. Niemuth occasionally has to travel overnight for her job. The Property is the primary residence, and they seek to utilize part of the Property as an exceptional special event venue for Calaveras County.

In terms of current events scheduled, Niemuth has booked one wedding on February 25, 2023 and three (3) more on March 11, 18 and 25, 2023. They have also booked the Fireman’s

Ball Fundraiser for April 15, 2023. Niemuth is trying to schedule more weddings in the spring and summer and is planning its Summer Music by the Lake Series to occur in late spring, summer and fall of 2023. For this Phase I compliance effort, Niemuth is requesting an Administrative Use Permit (“AUP”) for the uses identified above for 2023. The Property is ideally situated to host special events.

II. PROJECT ENTITLEMENTS

Phase I- Administrative Use Permit

Niemuth is requesting an AUP pursuant to Section 17.87 050 of the Calaveras County Code. An AUP can be used for multiple events at the same location, that occur at various times throughout the year. The proposed uses (wedding receptions, fundraisers, and music series) will have a limited and less than significant impact to the environment, adjacent properties, and the neighborhood or community. The wedding receptions will be limited to fewer than 300 guests and the fundraiser is limited to 200 guests. Niemuth is requesting an AUP for the uses identified above for 2023.

As noted, the General Plan designation for the property is Rural Transition B, with a zoning designation of Rural Residential (“RR”). The purpose of the RR zone is to provide lands for personal ranches in which a residential use is the primary land use. The zoning code allows for special events with an AUP subject to Chapter 17.87 of the Calaveras County Code or a Conditional Use Permit (“CUP”). To allow for the special events this year an AUP is appropriate.

Phase II – Conditional Use Permit- Long Term Project

The long-term Project for Niemuth may include use of the Property for weddings, fundraisers, music series on the lake and a wine tasting room (“Project”). We are concurrently preparing an Application for a grading permit and for all the uses intended for Niemuth. Once we have a completed Project description and necessary engineering and architectural documents from the consultants, we will request a pre-application meeting with the Planning Department to review the Project and receive input from the County prior to submitting the Application. In order to minimize the disturbances to grading, drainage and other earthwork activities on the Property, Niemuth will submit for a grading permit once a CUP has been approved for the Project.

III. CONCLUSION

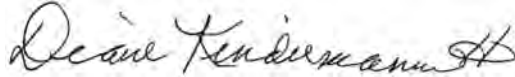
The Community Development Director may issue an AUP for the events scheduled in 2023. The special events will have a minimal impact on the environment and on the neighboring properties. Niemuth will agree to any reasonable conditions of approval deemed necessary by the Community Development Director to address noise, traffic, parking, and any other potential environmental impacts. Niemuth will also complete all of the County’s requirements for a

Julie Moss-Lewis
Deputy County Counsel
January 30, 2022
Page 3 of 3

special event permit, provide adequate insurance and sign the indemnification agreement required by the County. Niemuth is seeking to provide visitors of Calaveras County a unique and exceptional experience while investing in the Calaveras County economy.

Thank you again for your courtesies and please let us know if Niemuth may submit an AUP application for Phase I of its compliance efforts.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Diane Kindermann", followed by a stylized flourish or initial.

Diane Kindermann

DKH/rmo

cc: Clients
Aspen Street Architects, Inc.
Barmaper & Associates
Holloway Land Company
Moore Biological Consultants
Terraphase Engineering, Inc.

Attachment 7

AUP 2022-060 Application & Event Calendar



**CALAVERAS COUNTY
PLANNING DEPARTMENT**

GOVERNMENT CENTER
891 MOUNTAIN RANCH RD
SAN ANDREAS, CA 95249

Phone (209)754-6394 / Fax (209)754-6540
email: planningdepartment@co.calaveras.ca.us

SPECIAL EVENTS APPLICATION

**NOTE: FAILURE TO ANSWER APPLICABLE QUESTIONS AND REQUIRED ATTACHMENTS
COULD DELAY THE PROCESSING OF YOUR APPLICATION.**

Submit a completed application, fees and any additional information to the Planning Department
or

EVENT INFORMATION

EVENT TITLE: Niemuth Manor Weddings & Events **EVENT DATE(S):** See Calendar
Event Location (including address): 769 Dogtown Rd. Angels Camp CA 95222

Assessor's Parcel Number(s): 057001048
Event Hours (include Set Up through Break Down): 3pm to 11pm
Projected Number of Attendees, Vendors, Volunteers, etc.: 300 max

APPLICANT & SPONSORING ORGANIZATION INFORMATION

Sponsoring Organization(s): Niemuth Manor
Contact Person: Jonathan **Phone Number:** 209-630-1099
Mailing Address: 769 Dogtown Rd. Angels Camp CA 95222
Email: Jonathan@NiemuthManor.com
Property Owner(s): Jonathan & Allyson Niemuth
Mailing Address: 769 Dogtown Rd. Angels Camp CA 95222
Phone Number: 209-630-1099 **Email:** Jonathan@NiemuthManor.com

EVENT DETAILS

Type of Event:

- ☐ Festival ☐ Run/Walk ☐ Bike Race ☐ Parade
☐ Concert/Live Music ☒ Other Weddings & Birthdays

Describe in detail the proposed event (Attach separate sheet if necessary): Hosting weddings as well as
birthdays, anniversaries and other special events. ALL EVENTS WILL TAKE PLACE AT THE

EVENT TENT, LAWN & GRAVEL PATIO.

Will the event involve or require any of the following (check all that apply):

- | | |
|---|--|
| <input type="checkbox"/> Overnight camping _____ number of campers | <input type="checkbox"/> Parade or Race route |
| <input checked="" type="checkbox"/> Temporary structures (tents, fencing, etc.) | <input checked="" type="checkbox"/> Food preparation for sale or consumption |
| <input type="checkbox"/> Alcohol Served or Sold – ABC License Needed | <input checked="" type="checkbox"/> Temporary toilet facilities |
| <input checked="" type="checkbox"/> Onsite parking | <input type="checkbox"/> Street parking |
| <input checked="" type="checkbox"/> Access from a County road | <input type="checkbox"/> Access from a State Highway |
| <input type="checkbox"/> Generators | <input type="checkbox"/> Fireworks or Pyrotechnics |
| <input type="checkbox"/> Carnival or animal rides | <input type="checkbox"/> Other _____ |

Describe the parking arrangements in detail for the event (Attach a plan if necessary): We have onsite
parking for approximately 170 cars and more if needed.

Will the event require the temporary use or closure of any roads or highways? ☐ Yes ☒ No If Yes, additional permitting will be required from the County and/or State.

Will there be sound amplification?: ☐ Yes-Indoors ☒ Yes-Outdoors ☐ No If Yes, how many hours per day? 4-5 hours If Yes, name start and stop time from approximately 4pm - 10pm

Estimated Length of Parade: _____ Estimated Number of Floats: _____

Event Security: Applicant has contacted the Calaveras County Sheriff's Department to determine if security is required for the event. ☐ Yes ☒ No If Yes, what means of security will be provided for the event? ☐ Private Security Company ☐ Contract with Sheriff's Department ☐ Both

Right of Entry

I (We) hereby acknowledge that by making this application, and under the authority of Government Code Section 65105, that in the performance of their functions, County agency personnel may enter upon the subject property and make examinations and surveys, provided that the entries, examinations and surveys do not interfere with the use of the land by those persons lawfully entitled to the possession thereof.

DECLARATION UNDER PENALTY OF PERJURY

I am (We are) the owner (s) of property involved in this application and I (We) have completed this application and all other documents required. I am (We are) the owner (s) of the property consenting to the preparation and submission of this application. I (We) declare under penalty of perjury that the foregoing is true and correct.

Signature of Property Owner (s):*

Signed: _____

Address: 769 Dogtown Rd. Angels Camp CA 95222

Date: 4/11/2022

Signature of Applicant (s):

* Signed: _____

Address: 769 Dogtown Rd. Angels Camp CA 95222

Date: 4/11/2022

Signature of Event Sponsor (s):

Signed: _____

Address: _____

Date: _____

NOTE: If the deed shows a corporation as the owner, a copy of a Resolution from the corporation authorizing this application, shall be submitted.

FOR OFFICIAL USE ONLY

Receipt Number

PLNG 361

Application Number

2022-00060

Method of Payment,

[] Cash ☒ Check # 175

Amount

\$100.000

2022-00060 Project #

Date Stamp

RECEIVED

DEC 09 2022

Calaveras County
Planning Department

Revised 01/11/2018

Conditions
BL must be valid
COP in 6 months

Calendar of Events at Niemuth Manor

- **Saturday, January 28th, 2023 – Angels Camp Fire Department's Fundraising "Firemen's Ball"**
- **Saturday, February 25th, 2023 – Private Wedding**
- **Saturday, March 11th, 2023 – Private Wedding**
- **Saturday, March 18th, 2023 – Private Wedding**
- **Saturday, March 25th, 2023 – Private Wedding**