

Attachment A

Discussion

I. Background

A. Application for an Administrative Interpretation.

On April 30, 1997, the Planning Commission approved a use permit for a wine storage building, known as the “Chai,” on APN 169-161-001-000, a part of the Chateau Julien property in Carmel Valley. (Resolution No. 97028, attachment F to the staff report.) After the approval of the wine storage building by the Planning Commission, complaints were received that the building was being used for public assemblage not included in the original approval. Subsequently, a code enforcement case (CE980237) was opened, and the applicant (Coastal Cypress Corporation) requested an Administrative Interpretation from the Director of Planning to determine whether the use of public assemblage in the wine storage building is allowed. (Attachment B to the staff report.) The applicant’s request was based the following:

1. The original Use Permit # ZA-05055 issued for the construction of the existing winery on April 19, 1982, for APN 169-151-022-000 should extend to APN 169-161-001-000 which is the site of the subject wine storage building. The Chai would not exist without the winery; both the Chai and the winery are part of the same facility.
2. Public assemblage activities constitute accessory uses to the winery’s facilities under its original Use Permit in accordance with both previous and current Zoning Ordinances;
3. The existing wine storage building Use Permit allows, as an accessory use, the conduct of public assemblage activities including the use of the facility by up to 300 people per event, subject to code requirements related to noise, fire, safety, and subject to the availability of water and the adequacy of septic disposal facilities (Attachment B).

The Director of Planning issued an Administrative Interpretation stating that the use of public assemblage is not allowed as an accessory use to the approved wine storage building. (Attachment C to the staff report.) The interpretation was based on the following facts and conclusions:

1. The original Use Permit granted in 1982 for the establishment of the winery does not extend to the adjoining parcel where the wine storage building is located;
2. The application submitted in 1997 by the applicant for the Use Permit for a wine storage building (File # 965157 ZA), did not include the use of the facility for public assemblage. Furthermore, potential impacts of the use of the facility for public assemblage – including additional traffic, waste disposal and noise – were not addressed in the Negative Declaration filed for the application;
3. A subsequent building permit issued after completion of the wine storage building allowed the addition of employee restrooms and an employee lounge. This is clearly indicated in the application form and plans submitted for the building permit by Coastal Cypress Corporation; and
4. The owner’s described use for public assemblage in the separately permitted wine storage building is not a proper accessory use of a structure originally professed to be used for storage of wine produced on-site only, and does not qualify as an accessory use as defined in the Zoning Ordinance.

B. Appeal by the Applicant to the Planning Commission. The Applicant then appealed the Administrative Interpretation from the Director of Planning to the Planning Commission. This appeal (Attachment D) can be summarized as follows:

1. The owner states that the following related material facts were not considered by the Director of Planning in his interpretation:
 - a. The conduct of wine tasting and private functions (public assemblage events) are accessory uses of the Winery's premises under the 1982 Use Permit as was conclusively found and determined by the Judgment of Monterey County Superior Court filed December 6, 1985.
(**Note:** The Chateau Julien Winery was approved via a Use Permit (File ZA-50550) on April 19, 1982. The referenced Court's Judgment followed a lawsuit filed by the owner of the winery challenging a condition of approval of that Use Permit requiring that wine tasting at the winery be limited to "by invitation only." The issue in the lawsuit was whether the use of the winery including wine tasting and other ancillary activities are accessory to the use of the winery; and whether those uses would result in increases to the levels of use of the winery site at the time of the approval in 1982. The Court ruled in favor of the owner agreeing that all its activities are accessory uses to the winery and that the intensity of the use of the winery including the accessory uses was within the estimated levels at the time of the approval of the winery in 1982).
 - b. The Chai building, parking lot and other improvements that are the subject of Use Permit No. 965157 ZA, expanded the Winery's operations and integrated them into one overall location; and
 - c. The original parcel and the added parcel now constitute the location of the Winery at which its operations are conducted.
2. The owner states that Condition No. 1 of the Use Permit, which states that *"This permit allows for the use of a wine storage building, track circulation area, and a 14 space parking area"*, sets forth the primary uses of the Chai building and that this Condition does not state that these specific uses are exclusive or the only possible uses. The owner further states that *"... the accessory use of private functions should be deemed to have been contemplated and in fact authorized"* during consideration of the Use Permit application for the Chai building.
3. The owner states that the restroom plans submitted for the addition of employee bathrooms to the wine storage building *"... complied with all the provision of the Americans with Disabilities Act, a requirement for public assemblage use but not for employee use."*

The Planning Commission considered the appeal of the Director's Interpretation on or about May 12 and/or June 9, 1999, whereby the Commission voted (5-3 vote) to grant the appeal and rendered a different interpretation than the Director of Planning. The Commission found that "the use of the wine storage building for public assemblage, is an included and incidental use to the Use Permit approved by the Commission on April 30, 1997; and that the accessory use of the wine storage building for public assemblage is consistent with the approved Use Permit." (Attachment E to the staff report, emphasis added.)

II. Appeal of the Planning Commission's Administrative Interpretation

On June 15, 1999, John and Janella Suwada appealed the action of the Planning Commission approving public assemblage as part of the Use Permit for the wine storage building. (Attachment E.) The appeal contended:

1. The Use Permit for the wine storage building (File # 965157 ZA) did not include the use of the building for public assemblages.
2. The use of the wine storage building for public assemblages for up to 300 people per day violates the wastewater discharge limits for sub-basin 28 which is where the wine storage building is located.
3. The existing winery does not have a valid permit from the Monterey Peninsula Water Management District for the use of water for the wine storage building.
4. The Noise Impact Study has not been reviewed by professionals to validate its accuracy.
5. There was no assessment of traffic and safety impacts from the use of the wine storage building for public assemblages.

III. Board of Supervisors Hearing, September 7, 1999.

On September 7, 1999, the Board of Supervisors considered the appeal of the Planning Commission's finding that the use of the wine storage building for public assemblage is incidental and accessory to the Chai. The Board's discussion generally included consideration on whether the public assemblage could be allowed as an accessory use to the approved wine storage building and the original winery as a whole. The Board considered whether this could be the case providing that the public assemblage at the wine storage building, together with the overall activities at the winery, does not exceed the levels of use of the original approval of the winery in 1982 and the capacity of on-site sewage disposal.

Given that the Chai was proposed and approved separately, even though it is wholly a part of the overall use of the winery, the Board sought assurance that there would not be intensification of use resulting from the public assemblage at the Chai. At the hearing on September 7, 1999, the property owner concurred that "he would be willing to agree to a finding that the winery could allow public assemblages as long as they conform to the original limits regarding vehicle trips and amount of sewage of a maximum of 150 guests per event, with an average of 104 guests per week." These limitations were provided by the Environmental Health Bureau as a way of ensuring that the site remained in compliance with the Montgomery Study which defines how much septic discharge can be accommodated within the Carmel Valley. The Environmental Health Bureau also indicated that the septic system for the wine storage facility could not accommodate onsite washing of dishes or serving utensils. The Board of Supervisors continued their consideration of the matter indefinitely and appointed a Sub-Committee to follow up with staff and the property owner to arrive at a recommendation to the full Board. (Attachment H) The Sub-Committee never met, so there are no recommendations and no follow up coming from the Sub-Committee.

IV. Analysis

The property owner has now requested that the neighbor's appeal be again considered by the Board of Supervisors due to the pending sale of the property, and has submitted additional correspondence (Attachment I) and resubmitted information (Attachment H) originally submitted for the September, 1999 hearing. Staff from RMA- Planning met with the property owner on

March 2, 2015 whereby the owner reasserted that the wine storage building and public assemblages conducted therein are part of the regular operation of the winery and that the use of the entire winery operation would continue to be subject to the original limitations and on-site infrastructure capacity.

At the Board hearing on September 7, 1999, staff recommended the granting of the appeal filed by Mr. and Mrs. Suwata. The recommendation was contrary to the conclusion of the Planning Commission at the time and based mainly on the Administrative Interpretation by the then Planning Director, the fact that the wine storage building was approved separately and on the perception of an incomplete vehicle trip generation and traffic impact analysis and lack of noise analysis.

The consideration of the issue at hand –whether the use of the Chai for public assemblage is allowed as part of the operation of the winery—is assisted by the Court’s Judgment in 1985 regarding accessory uses at the winery and the levels of use of the winery compared to the pre-approval levels. This is an interpretation of an existing set of permits, and with distinct issues raised by the appellant. The following points are offered for the Board’s consideration:

1. The winery and the wine storage building were approved separately. However, the wine storage building is a part of the overall operation of the winery. Further, the owner has concurred that the operation of the winery including public assemblages would continue within the original limits regarding the number of vehicle trips corroborated in the Court Ruling in 1985, which were the basis for the approval of the original winery operation.
2. The property owner further confirmed that all the events (public assemblage) conducted at the wine storage building are completely related to the overall operation of the winery (Attachment I); and that the number of guests at the events would not exceed the capacity of the septic disposal system for the wine storage building (728 guests per week and a maximum of 150 guests per event).
3. The Noise Report submitted by the property owner to the Board of Supervisors for the September 1999 hearing confirmed that the noise levels generated by public assemblage at the wine storage building are within the maximum 85 decibels allowed by the County Code;
4. The analysis of vehicle trip generation submitted by the property owner to the Board of Supervisors for the September 1999 hearing (included in Attachment J), concludes that the entire winery operation, including special events, generate “significantly less trips annually and daily” than the use of the site prior to the approval of the winery in 1982 which were the basis for that approval;
5. The water source for the project is a private well. The Water Permit Application reviewed by the Water Resources Agency at the time of the application and approval of the use permit indicates that the source of water for the subject property is a private well. There was no additional allocation of water resources for the project from the then-existing County’s allocation of water resources by the Monterey Peninsula Water Management District. Therefore the wine storage building has a legal water source permitted and regulated by the Health Department and there will not be additional water use resulting from the Board’s interpretation regarding the use of the wine storage building, to allow public assemblages under the limits specified in the interpretation.

The Planning Commission concluded that “the use of the wine storage building for public assemblage, is an included and incidental use to the Use Permit approved by the Commission on April 30, 1997. The concerns by the appellant have been addressed by information submitted by

the applicant for the 1999 hearing. The use has been conducted since that time without complaint. Based upon this information, the Board could deny the appeal and uphold the action of the Planning Commission. If the Board wanted to be a bit more specific in terms of the interpretation, language could be added to state that the public assemblages are permitted provided the overall use of the winery including the winery, tasting room, wine storage and public assemblages do not exceed the thresholds established by the original use permit for the winery. A Resolution has been provided for the Board of Supervisors reflecting this language.

CEQA Review

Administrative Interpretations that merely enforce a permit are exempt from environmental review under Section 15321 (a) (2) of the CEQA Guidelines. The Board of Supervisors' action is an administrative decision resulting in no new entitlements, uses or construction.