

Attachment K

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Draft Resolution

**Before the Board of Supervisors in and for the
County of Monterey, State of California**

Resolution No.

Resolution of the Monterey County Board of)
Supervisors denying the appeal by John and)
Janella Suwata from the Planning)
Commission’s Administrative Interpretation)
finding that public assemblages are an allowed)
accessory use to a wine storage building)
approved as part of the Chateau Julien)
Winery.)
(PLN990138/Coastal Cypress Corporation –)
Chateau Julien))

The appeal by John and Janella Suwada from the Planning Commission’s administrative interpretation regarding use of the wine storage building came on for public hearing before the Monterey County Board of Supervisors on September 7, 1999 and March 17, 2015. Having considered all the written and documentary evidence, the administrative record, the staff reports, oral testimony, and other evidence presented, the Monterey County Board of Supervisors hereby finds and decides as follows:

FINDINGS

- 1. **FINDING:** **INTERPRETATION** – The Board of Supervisors has found that the wine storage building (Chai) is part of the Chateau Julien Winery and public assemblages are an allowed accessory use subject to the following limitations: (1) vehicle traffic generation is limited to 50 vehicle trips per day (including the Chai) as identified in the original use permit for the winery in 1982; (2) the on-site wastewater disposal system for the Chai can accommodate a maximum of 150 guests per event with a maximum of 728 guests per week; and (3) all special events using the wine storage building shall be fully catered, onsite preparation of food or washing of dishes or utensils is prohibited. These limitations apply to the use permit for the winery (ZA-05055) and the use permit for the Chai (965157ZA).
- EVIDENCE:**
- a) 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 trips corroborated in the Court Ruling in 1985, which were the basis for the approval of the original winery operation.
 - b) The property owner has confirmed that all the events (public assemblage) conducted at the wine storage building are completely related to the overall operation of the winery; and that the use of public events at the winery is within the originally established limit of 50

vehicle trips per day and within the wastewater effluent limitations for the Chai (a maximum of 728 guests per week and a maximum of 150 guests per event).

- c) The Noise Report submitted by the property owner to the Board of Supervisors for the September 1999 hearing, prepared by a professional consultant, 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.
- d) The analysis of trip generation submitted by the property owner to the Board of Supervisors for the September 1999 hearing, prepared by a professional traffic consultant, 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.
- e) The Water Permit Application reviewed by the Water Resources Agency at the time of the application and approval of the use permit for the wine storage building 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 from the Monterey Peninsula Water Management District. Therefore the wine storage building has a legal water source permitted and regulated by the Health Department.

2. **FINDING:** **PROCEDURAL BACKGROUND** – The project has been processed in compliance with County regulations.
- EVIDENCE:**
- a) On April 19, 1982 the County approved a Use Permit (File ZA-50550) for the construction of the original Chateau Julien Winery.
 - b) On April 30, 1997, the Monterey County Planning Commission approved a Use Permit (File 965157ZA) for development of an 8,350 square foot wine storage building, truck circulation area and a 14-space parking area on property (APN 169-161-001-000) located at 8940 Carmel Valley Road adjacent to the then existing Chateau Julien Winery.
 - c) Sometime after the approval and construction of the wine storage building, complaints were filed that the building was being used for public events not allowed under the approved Use Permit (File 965157ZA). The Board making a finding that the public assemblages are allowed as specified in this interpretation will allow the active code enforcement case (CE980237) to be dismissed.
 - d) On February 4, 1999, the property owner submitted an application for an Administrative Interpretation from the Director of Planning requesting an interpretation on whether the Use Permit approved by the Planning Commission for the wine storage building included public assemblages as an accessory use of the building.
 - e) On March 9, 1999, the Director of Planning issued an Administrative Interpretation that the use of public assemblages is not an accessory use to the approved wine storage building.
 - f) On March 19, 1999, the property owner filed an appeal of the Administrative Interpretation of the Director of Planning.

- g) On or about May 12, 1999 and June 9, 1999, the Planning Commission considered and upheld the appeal determining 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.”
- h) On June 15, 1999, John and Janella Suwata filed an appeal of the determination from the Planning Commission that public assemblage is an included and incidental use to the Use Permit approved by the Commission.
- i) The appeal was brought to public hearing before the Board of Supervisors on September 7, 1999. The Board of Supervisors conducted the hearing and continued the hearing indefinitely to allow a subcommittee of the Board to work with the applicant and staff to provide recommendations to the Board on how to proceed with the request. The appeal has remained pending since 1999. The property owner is now selling the property and has requested that the Board of Supervisors resolve the appeal. The owner and buyer seek to resolve the matter so there is clarity on what is allowed on the subject site. Staff contacted the appellant to inquire whether he is still interested in proceeding with the appeal. Since he is, the appeal has been brought back to the Board of Supervisors, and staff scheduled the hearing on the appeal for March 17, 2015. At least 10 days prior to the March 17 public hearing, notices of the public hearings before the Board of Supervisors were published in local newspapers and were posted on and near the property and mailed to the property owners within 300 feet of the subject property as well as interested parties. Due to the passage of time, the staff report to the Board of Supervisors for the March 17, 2015 contained a detailed chronology, key documents from 1999, as well as correspondence from 1999 and the present. The Board fully considered the evidence at its March 17, 2015 hearing and provided the opportunity for owner, appellant and any member of the public to be heard.
- j) Staff Reports, minutes of the Board of Supervisors’ hearings, and information and materials in Planning File Nos. 965157ZA and PLN990138.

3. **FINDING:** CEQA (Exempt) – The interpretation by the Board of Supervisors is exempt from environmental review under Section 15321 (a) (2) of the CEQA Guidelines.
- EVIDENCE:**
- a) The interpretation is an administrative decision by the Board of Supervisors clarifying the use of a facility approved by the Planning Commission. The interpretation will not result in new entitlements, uses or construction.
 - b) CEQA Guidelines Section 15321 (a) (2) exempts the adoption of an administrative decision enforcing a permit, entitlement for the use, or enforcing the general rule, standard or objective.

4. **FINDING: APPEAL AND APPELLANT CONTENTIONS**

The appellant states that the use of the wine storage building approved by the Planning Commission on April 30, 1997 (File 965157ZA) does not

include the use of the building for public assemblages. The contentions raised on the appeal are contained in the Notice of Appeal (Attachment G to the March 17, 2015 Board of Supervisors Staff Report) are listed below with the corresponding responses. The Board of Supervisors makes the following findings regarding the appellant's contentions:

Contention No. 1: The Use Permit for the wine storage building (File # 965157 ZA) did not include the use of the building for public assemblages.

Response: The appellant is correct. The materials submitted in the original application and reviewed by staff did not include public assemblage. There was no indication that such use was intended as part of the permit applied for. However, evidence has been submitted by the applicant demonstrating how the wine storage building fits into the winery. The Planning Commission found that the wine storage building should be considered part of the winery and as such public assemblage uses allowed at the winery should also be allowed at the wine storage building within the established limitations so as to not intensify the overall use.

The applicant has submitted for the record that the activities occurring at the Chai are activities permitted for the winery. The Chai is not a stand-alone use but is part of the winery. While these uses were not initially considered, they do not constitute an expansion of the overall use of the winery.

Contention No. 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.

Response: This contention overstates the use of the wine storage building. During consideration of the appeal by the Board of Supervisors on September 7, 1999 the Environmental Health Bureau presented information setting limits for the onsite septic disposal system in compliance with the 1982 Carmel Valley Wastewater Study (Montgomery Report) adopted by the Board of Supervisors. The information submitted established that events at the wine storage building are limited to a maximum total of 728 guests per week with an event maximum of 150 guests. In the information presented by the Environmental Health Bureau, it was pointed out that the limitations on the septic system would not accommodate food preparation or washing of dishes or utensils at the wine storage building. The property owner agreed that these limits are being maintained. This interpretation should be worded in such a way to capture these limitations.

In addition, the Planning Commission and the Board of Supervisors have found, based on the administrative record and evidence presented at the various public hearings, that public assemblages at the wine storage building are part of the ordinary use of the original winery.

Contention No. 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.

Response: No permit is required from the Monterey Peninsula Water Management District. There was a permit process in place at the time, by which water could be allocated to a site, but in this particular case no water allocation was given because water is provided by a private well.

Contention No. 4: The Noise Impact Study has not been reviewed by professionals to validate its accuracy.

Response: The Noise Study was prepared by a professional with expertise in preparing noise impact studies. No technical information has been submitted to indicate the noise study is not accurate. Live music was not a component of the application for the wine storage building (File # 965157 ZA). A noise report was not required by staff, nor submitted by the applicant, for review during the processing of the original Use Permit application. A “Music and Parking Lot Noise Impact Study” was submitted by the applicant in February of 1999 in support of his request for an Administrative Interpretation. This report concludes that the noise generated by public assemblage at the wine storage building is within the 85 decibel level allowed by the Noise Ordinance.

Contention No. 5: There was no assessment of traffic and safety impacts from the use of the wine storage building for public assemblages.

Response: The analysis of vehicle trip generation submitted by the property owner to the Board of Supervisors for the September 7, 1999 hearing concludes that the entire winery operation, including special events and the Chai, generate “significantly less trips annually and daily” than the use of the site prior to the approval of the winery in 1982 which was the basis for that approval. The traffic analysis presented by the property owner confirmed that the operation of the entire facility, including the winery and wine storage building, is within the average number of daily vehicle trips (50/day) used in the traffic analysis for the original 1982 Use Permit and as corroborated by the Court ruling in December, 1985 to determine that the traffic generated by the winery is less than the traffic generated by the earlier use of the property. This is the limitation applied to the use permit for the winery, Chai and public assemblages. The Board of Supervisors interpretation that public assemblages are allowed at this site will not result in any additional traffic generation. The use has been operating for the last 15 years, and the public assemblage is permitted in the winery. The use of the wine storage building is part of the winery and public assemblage at this location gives the property owner a choice of where to hold events without increasing the intensity of use.

DECISION

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors does hereby:

- a. Deny the appeal by John and Janella Suwata of the Planning Commission's Administrative Interpretation finding that public assemblages are an allowed accessory use to a wine storage building approved as part of the Chateau Julien Winery and
- b. Approve an Administrative Interpretation that the wine storage building (Chai) is part of the Chateau Julien Winery and public assemblages are an allowed accessory use subject to the following limitations: (1) vehicle traffic generation is limited to 50 vehicle trips per day for the entire site (including the Chai) as identified in the original use permit for the winery in 1982; (2) the on-site wastewater disposal system for the Chai can accommodate 150 guests maximum per event with a maximum of 728 guests per week; and (3) all special events using the wine storage building shall be fully catered; onsite preparation of food or washing of dishes or utensils is prohibited. These limitations apply to the use permit for the winery (ZA-05055) and the use permit for the Chai (965157ZA).

PASSED AND ADOPTED upon motion of Supervisor _____, seconded by Supervisor _____ and carried this 17th day of March, 2015, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book___ for the meeting on _____.

Dated:

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By _____
Deputy