

# Attachment C

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# MONTEREY COUNTY



## PLANNING AND BUILDING INSPECTION DEPARTMENT

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WILLIAM L. PHILLIPS, DIRECTOR

March 9, 1999

Dennis M. Law  
Horan, Lloyd and Karachale,  
Dyer, Schwartz, Law & Cook, Inc.  
Post Office Box 3350  
Monterey, CA 93942-3350

RE: Application for Administrative Interpretation of Use Permit: Chai Structure at Chateau Julien

Dear Mr. Law:

This responds to your "Application for Administrative Interpretation of Use Permit" for the use of the Chai building at Chateau Julien. In preparing this response, we have reviewed, repeatedly and in detail, your materials requesting the interpretation, including your supplemental documentation. This Department's records regarding past hearings and actions involving Chateau Julien and the applicable provisions of Title 21, Monterey County Code were also consulted.

After full consideration of these records and the materials that have been submitted, we make the following findings in response to the various points raised in your application for administrative interpretation:

1. Coastal Cypress Corporation (a.k.a. Chateau Julien) was granted a Use Permit in 1982 for the construction and operation of a winery subject to numerous conditions. That Use Permit does not, however, extend to the adjoining parcel. At the time that Use Permit was applied for, considered, and approved, Coastal Cypress Corporation did not own, nor did they have control of the adjoining property to the west on which the Chai building now stands. There is, therefore, no basis to support your position that the original Use Permit for the winery extends to the Chai property.
2. The Planning Commission, on April 30, 1997, at the conclusion of a de novo hearing on an appeal of a Use Permit previously approved by the Zoning Administrator, approved a Use Permit for the construction of a 8,350 sq. ft. wine storage building (the "Chai") and a Design Approval to remodel an existing single family dwelling. Neither the application nor the evidence presented at the appeal indicated that there was any intended public assembly accessory use purpose for the Chai or the dwelling. Condition #1 of that permit specifically states that "this permit allows for the use of a wine storage building, truck circulation area, and a 14 space parking area". Condition #1 further states that "any use or construction not in substantial conformance with the terms or conditions of this permit, is a violation of county regulations". The Use Permit approved by the Planning Commission did not provide for any other uses.

Mr. Dennis M. Law

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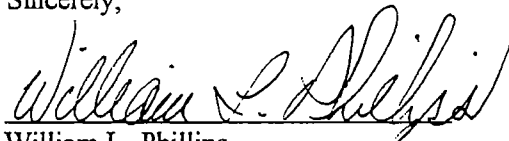
3. The building permit which was subsequently approved as a modification to the approved building plans to provide restrooms, was applied for and issued as employee restrooms. At no point in the building permit application was it indicated that the restrooms were for any use other than for employees.
4. Since the Use Permit issued in 1982 for the winery does not extend to this property, the decision of the court cited in your application for administrative interpretation cannot be construed to extend to the Chai structure. At the time the court considered this matter in 1985, the property on which the Chai is located, was not owned nor under the control of Coastal Cypress Corporation and the court could not have had any reasonable belief or expectation that the issue and the permit before it would ever be extended to another property.

Given the preceding facts, it is clear that the determination of appropriate uses of the Chai structure must be evaluated on the basis of its own independent use permit, and not as an expansion of the allowable accessory uses of the separate winery use permit. The only issue remaining is whether or not the use of the Chai building for public assembly as described in your application for administrative interpretation is a proper accessory use to a wine storage building. Section 21.06.1330 of Title 21 defines an accessory use as "a use accessory to and customarily part of the permitted use, clearly incidental and secondary to the permitted use and which does not change the character of the permitted use." The use you describe for public assemblage in the separately permitted Chai structure is not a proper accessory use of a structure originally professed to be limited in use for storage of wine produced on-site only. The use of the Chai building for public assembly as you have described potentially allows for one or more events each and every day with up to 300 persons at each event. At the same time, however, you "reserve" in your application for administrative interpretation that the use of the Chai building has no effect on "winery tours, wine tasting, and other similar activities at the winery premises." If this is, in fact, your proposal and interpretation, it does not appear that the public assembly use of the Chai is "clearly incidental and secondary to the permitted use," but, in fact, appears to be a substantial use of the structure itself.

Therefore, it is our opinion that, based on the facts of record, the information you have submitted, and particularly the use you describe for the Chai building, that the use of the Chai building for public assembly, as you have described, is not accessory or incidental to the use of the structure and cannot be allowed under the current Use Permit for the Chai. If you wish to pursue the use of the Chai for the described public assembly uses, a separate use permit will be required.

Should you wish to appeal this decision, the appeal must be filed with the Secretary to the Planning Commission to later than 5:00 p.m. on March 19, 1999, or no subsequent appeal on this issue may be heard. If you have any questions regarding this Interpretation, please feel free to call me.

Sincerely,



William L. Phillips  
Director of Planning  
and Building Inspection

DE:kb