

## Exhibit B

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## Director's Interpretation

**Please note that this memorandum is issued solely for informational purposes, written to provide the Board of Supervisors, Planning Commission, Public and staff a written interpretation of how special events are currently considered..**

**Date:** October 17, 2016

**By:** Carl P. Holm, AICP, RMA Director

**Application:** County-wide

### **What is the Question?**

A question that was presented by the public is: *“How can a golf and country club in P/QP zoning be allowed to exceed the number of members and guests for which it was permitted for any purpose, and in particular a commercial purpose not remotely related to the anticipated operation of a golf and country club, without a specific use permit. (Assemblages of people such as this could be allowed within reasonable parameters with a use permit for up to 10 days per year – the Code provides a path for this.) Such a permit should clearly explain the parameters of the event as well as the methods by which any impacts will be mitigated.”*

### Questions raised by this inquiry:

- 1) Can a golf course/country club have events?
- 2) Is there a limit on the number of people that can attend an event?
- 3) Can wineries/tasting rooms hold events?
- 4) Can events be held in a vineyard?

### Applicable Monterey County Policy/Regulation:

- Zoning Code - Uses:
  - P/QP uses/zoning; allowed in most zoning designations with a Use Permit. P/QP allows golf courses and country clubs with a Use Permit/Coastal Development Permit.
  - “Assemblages of people...”; allowed in most, if not all, zoning districts with a Use Permit/Coastal Development Permit.
  - “Other uses of similar nature, density and intensity as those listed...”; language contained in all zoning districts, subject to approval of Planning Commission.
- 20.58/21.58 MCC (Regulations for Parking).
- AWCP Section 3.2: allows events up to 150 people (allowed without a planning permit)
- AWCP Section 3.3: events with 151-500 subject to ministerial permit
- AWCP Section 3.4: events over 500 require a use permit
- 15.20.050 MCC: Public Assemblage. Maximum 10 calendar days per year.
- CEQA – Baseline: Generally is the condition at the time the environmental assessment is made or in the case of an EIR when the Notice of Preparation (NOP) is issued.

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- **21.68.020 - Legal nonconforming land use.**

*A legal nonconforming land use may be continued from the time that legal nonconforming land use is established, except that.*

- A. No such use shall be expanded, enlarged, increased, or extended to occupy a greater area than that occupied when the legal nonconforming use was established.*
- B. No such use may be intensified over the level of use that existed at the time the legal nonconforming use was established.*
- C. The legal nonconforming use may be changed to a use of a similar or more restricted nature, subject to a Use Permit in each case.*

- **21.68.030 - Legal nonconforming structure use.**

*A legal nonconforming use of a structure may be continued except that:*

- A. The nonconforming use of a structure may be changed to a use of the same or more restricted nature subject to the issuance of a Use Permit in each case.*
- B. The nonconforming use of a portion of a structure may be extended throughout the structure subject to the issuance of a Use Permit in each case.*
- C. A structure maintaining a legal residential nonconforming use may be increased for the expansion of the use by one hundred twenty (120) square feet, or ten (10) percent of the floor area, whichever is greater.*

### **Short Answers:**

The following numbered responses correspond to the questions, above:

- 1) Yes. Events are considered part of this type of use. However, the event needs to be on the parcel(s) identified in the permit.
- 2) Yes. Threshold depends on zoning regulations in place at the time the event is/was established and if there is a valid entitlement with any limitation, such as: application, adopting resolution, environmental documentation, site design (e.g. parking lot).
- 3) Yes. Events are considered part of this type of use. However, the event needs to be on the parcel(s) identified in the permit.
- 4) No. Events are not associated with a vineyard by itself (Ag is an allowed use in many zoning districts). However, if the vineyard is on a parcel permitted for a winery and/or tasting room the vineyard may be used in support of activities associated with the winery. Marketing activities such as buyers touring the vineyard and tasting wine (limited number not including music or tents) would be allowed in agricultural zoning classifications (F, RG, PG, AP, CAP).

### **Discussion:**

Events can cause issues (noise, traffic, etc) if not managed properly. Most types of events require a permit of some sort – land use entitlement can include a use permit for an assemblage of people or public/quasi public use, building permit for structures (e.g. tents over 400 sf), ABC permit for alcohol sales, permit for chemical toilets (maximum 10 days per year), encroachment

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permit, etc. Events can be occasional (one-time) or reoccurring (annual) events; however, the County's permitting process is currently a one-size-fits-all (occasional or annual).

Events generally range from:

1. Personal events on privately owned property; to
2. Renting property for an event; to
3. Large events involving sales of tickets(within site limits); to
4. Regional/international events (exceeding site limits).

County intends to develop ordinances to distinguish and address these differing events, but there are issues arising in the interim. A number of large events have occurred historically that have been, for the most part, unregulated and have continued to grow/expand. This interpretation considers events under current regulations as well as how historical events are addressed, considering past practices.

There are generally three types of uses that include events:

- 1) "Assemblages of people". Requires a use permit/coastal development permit (most zoning districts).
- 2) Golf courses, resorts, and hotels. It has been a long standing practice that golf courses, resorts, and hotels include events as part of their normal course of business, even if not expressly stated in their permit. These uses require a use permit/coastal development permit as P/QP uses (most zoning districts).
- 3) Winery related. The practice is that winery related uses (winery, tasting room, etc.) include events as part of their normal course of business. AWCP has special regulatory policy language corresponding to the size of the facility and the number of people attending activities. Outside the AWCP these events require a use permit/coastal development permit. A subset of the winery related use that has come up recently is a desire to use vineyards for events when they are not attached to the winery. Vineyards by themselves are typically allowed in residential and agricultural zoning districts by right, do not include facilities to support visitors, and so vineyards by themselves are not considered as a location where events are allowed. The wine industry however does invite customers to tour the vineyard. This is a normal accessory use of the vineyard in agricultural zones and land uses.

Monterey County has been very permissive in allowing events to continue and expand with minimal public review. Our main focus has been life and safety relative to structures (e.g. "tents").

### **Conclusion:**

There are a number of events that have occurred for years/decades. Determining the legality of these events is case specific and fact driven. Events which began without any entitlement on the property are evaluated based on zoning regulations in place at the time the event is/was established. If there is a valid entitlement the event is evaluated for consistency with that entitlement, considerations from the environmental document and the site design. The analysis of the thresholds allowed by a previously approved permit involves the following steps:

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- Review permit file (application, adopting resolution, environmental/technical documents, etc)
- Define Applicable Parcel(s) identified in the entitlement. Use is limited to parcels included in the permit.
- Basis for analysis (CEQA). The thresholds used to evaluate impacts (e.g. traffic) are limiting factors in determining what was allowed.
- Established restrictions (conditions, mitigation). If no explicit limit, it is implied as allowed within site limits.
- Site Limitations. Some questions may help define carrying capacity (by design):
  - o Can the event be accommodated using the existing number of parking spaces, or are other parking options necessary (open space/vacant parcels, shuttles, etc)?
  - o In the case of a golf course; Are the number of attendees consistent with the maximum number of golfers that can be accommodated?
  - o Is the use and activity accommodated within the facilities that have been designed for the site?

If adequate restroom facilities are not available for the number of people planned (as determined by the Environmental Health Bureau), then chemical toilets are required. Chapter 15.20.050 MCC limits activities involving the assemblage of people including but not limited to circuses, carnivals, festivals, picnics, barbecues or races without providing adequate flush toilets connected to an approved sewage disposal system. If the use is less than ten (10) days per calendar year adequate chemical toilets may be used to meet this requirement. Stated in another way, events that require chemical toilets to meet the demand is limited to a maximum of ten calendar days per year.

County regulations require off-site parking sufficient to meet the parking demand in order to avoid parking on street. When a use is established, it has to meet parking standards established to meet this intent. If parking has not been addressed as part of the permit, then the event cannot be interpreted to be allowed. If offsite parking is needed, this would result in the need to apply for a subsequent permit.

In Carmel Valley, parameters must address potential impacts to traffic on Carmel Valley Road and on Hwy 1 among other things. The 2010 GP, CVMP (Policy CV-2.17), and GP EIR identify potential issues with adding traffic on Carmel Valley Road and on Hwy 1.