

# Exhibit H

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**MINUTES**  
**Greater Monterey Peninsula Land Use Advisory Committee**  
**Wednesday, February 5, 2020**

Site Visit at 2:30 PM at 26115 ZDAN ROAD, CARMEL VALLEY (STEVENS)

Attendees: Ron DeHof, Tamara Harris (2)



Members Absent: Linda Agrati, Joy Jacobs (2)

Site Visit at 3:15 PM at 11729 HIDDEN VALLEY ROAD, CARMEL VALLEY (11721 HIDDEN VALLEY LLC)

Attendees: Ron DeHoff, Tamara Harris (2)

Members Absent: Linda Agrati, Joy Jacobs (2)

**ADJOURN TO REGULAR SCHEDULED MEETING**

1. Meeting called to order by Ron DeHoff at 4:06 pm

2. Roll Call

**Members Present:**

Ron DeHoff, Linda Agrati, Tamara Harris (3)

**Members Absent:**

Joy Jacobs (1)

3. Approval of Minutes:

A. January 15, 2020 minutes

Motion: Ron DeHoff (LUAC Member's Name)

Second: Linda Agrati (LUAC Member's Name)

Ayes: DeHoff, Agrati, Harris (3)

Noes: 0

Absent: Jacobs (1)

Abstain: 0

4. **Public Comments:** The Committee will receive public comment on non-agenda items that are within the purview of the Committee at this time. The length of individual presentations may be limited by the Chair.

None

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5. **Scheduled Item(s)**

6. **Other Items:**

- A) Preliminary Courtesy Presentations by Applicants Regarding Potential Projects

None

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- B) Announcements

None

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7. **Meeting Adjourned:** 5:03 pm

**Minutes taken by:** Linda Agrati





# Action by Land Use Advisory Committee

## Project Referral Sheet

Monterey County RMA Planning  
1441 Schilling Place 2<sup>nd</sup> Floor  
Salinas CA 93901  
(831) 755-5025



**Advisory Committee:** Greater Monterey Peninsula

1.                   **Project Name:** STEVENS MARK  
                       **File Number:** PLN180176  
**Assessor's Parcel Number:** 416-071-008-000  
                       **Project Location:** 26115 ZDAN RD CARMEL VALLEY  
                       **Project Planner:** KENNY TAYLOR  
                       **Area Plan:** GREATER MONTEREY PENINSULA AREA PLAN  
**Project Description:** Administrative Permit and Design Approval to allow the construction of a new 2,797 square foot single family dwelling, with a 620 square foot garage, and 280 square foot porch.  
**Recommendation To:** DIRECTOR OF RMA PLANNING

**Was the Owner/Applicant/Representative present at meeting?**    YES   X   NO       

(Please include the names of the those present)

Ron Blomquist, General Contractor  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Was a County Staff/Representative present at meeting?** Jaime Guthrie (Name)

**PUBLIC COMMENT:** None

Name	Site Neighbor?		Issues / Concerns (suggested changes)
	YES	NO	

## LUAC AREAS OF CONCERN

Concerns / Issues (e.g. site layout, neighborhood compatibility; visual impact, etc)	Policy/Ordinance Reference (If Known)	Suggested Changes - to address concerns (e.g. relocate; reduce height; move road access, etc)

### ADDITIONAL LUAC COMMENTS

## Need staking & better directions

**RECOMMENDATION:**

Motion by: Linda Agrati (LUAC Member's Name)

Second by: Tamara Harris (LUAC Member's Name)

Support Project as proposed

Support Project with changes

X Continue the Item

Reason for Continuance: Unable to find property and no one present at site visit

Continue to what date:

Ayes: Linda Agrati, Tamara Harris, Ron DeHoff (3)

Noes: 0

Absent: Joy Jacobs (1)

Abstain: 0



# Action by Land Use Advisory Committee

## Project Referral Sheet

Monterey County RMA Planning  
1441 Schilling Place 2<sup>nd</sup> Floor  
Salinas CA 93901  
(831) 755-5025



**Advisory Committee:** Greater Monterey Peninsula

2.                   **Project Name:** 11721 HIDDEN VALLEY LLC  
                       **File Number:** PLN180257  
**Assessor's Parcel Number:** 185-051-019-000  
                       **Project Location:** 11729 HIDDEN VALLEY RD CARMEL VALLEY  
                       **Project Planner:** KENNY TAYLOR  
                       **Area Plan:** GREATER MONTEREY PENINSULA AREA PLAN  
                       **Project Description:** Administrative Permit and Design Approval to allow a private vineyard including construction of a new 3,871 square foot farm out-building (barn) for processing in the Site Plan review district.  
**Recommendation To:** ZONING ADMINISTRATOR

**Was the Owner/Applicant/Representative present at meeting?**           YES   X   NO       

**(Please include the names of the those present)**

David Arizini, Owner  
Mike Weaver, Interested Party  
Joshua Stewman, Designer  
Aengus Jeffers, Attorney for Mr. Arizini  
Laura Lawrence, Assistant to Mr. Jeffers  
Denise Stevens, Hidden Hills Homeowner's Association

**Was a County Staff/Representative present at meeting?**           Jaime Guthrie (Name)

Jaime Guthrie explained deed restrictions for wineries. Deed Restrictions follow property. There are both federal & County limits.

**PUBLIC COMMENT:**

Name	Site Neighbor?		Issues / Concerns (suggested changes)
	YES	NO	
Denise Stevens	X		<ul style="list-style-type: none"> <li>- Representing the Homeowners Board &amp; close neighbor</li> <li>- Grapes not to be moved off property so will be processed on site. There is another winery near on Hidden Hills</li> <li>- If property were sold, there are deed restrictions as noted below:               <ul style="list-style-type: none"> <li>▪ Water – Cal Am added well that produces about 50% of water need</li> </ul> </li> <li>- Hidden Hills HOA has no issue</li> </ul>

**PUBLIC COMMENT (CONTINUED):**

Name	Site Neighbor?		Issues / Concerns (suggested changes)
	YES	NO	
Mike Weaver		X	- Resident of Corral de Tierra; concerned about precedents
Aengus Jeffers, Attorney for Owner		X	- Cottage industries there are 3 reviews over the first 5 years to be sure they are compliant. Then, every 5 years. It's a thorough review. - Zoning Administrator is authority per code.

**LUAC AREAS OF CONCERN**

Concerns / Issues (e.g. site layout, neighborhood compatibility; visual impact, etc)	Policy/Ordinance Reference (If Known)	Suggested Changes - to address concerns (e.g. relocate; reduce height; move road access, etc)
Traffic (regarding special events, wine tasting, short term rentals)		Condition to limit traffic in perpetuity; Deed Restrictions to prevent special events, short term rentals or wine tasting
Adding more local wineries		Amount of vineyards to stay the same size except for what is currently in plans

**ADDITIONAL LUAC COMMENTS:** None**RECOMMENDATION:**Motion by: Ron DeHoff (LUAC Member's Name)Second by: Linda Agrati (LUAC Member's Name)       Support Project as proposedX Support Project with changes – refer to “Suggested Changes” listed above       Continue the Item

Reason for Continuance: \_\_\_\_\_

Continue to what date: \_\_\_\_\_

Ayes: Ron DeHoff, Linda Agrati (2)Noes: Tamara Harris (1)Absent: Joy Jacobs (1)Abstain: 0





Item submitted at  
February 5th Greater Monterey  
Peninsula Lutz meeting

**COUNTY OF MONTEREY**  
**Planning and Building**  
**Inspection Department**

To: County of Monterey Planning Commission  
From: Lynne Mounday, Planning and Building Services Manager  
Delinda Robinson, Senior Planner  
Date: February 16, 2005  
Regarding: Summary Report on Cottage Industry Wineries/Breweries

On July 28, 2004, the Planning Commission adopted a resolution of intent to direct staff to develop cottage industry winery regulations for the Commission's consideration.

This report responds to this information request, and includes recommendations for zoning amendments (EXHIBIT A) that address the issues related to operating micro wineries/breweries as Cottage Industries. The following is a discussion of issues (highlighted):

Potential issues with cottage industry wineries are the following

1. Cottage industries, in general, introduce foot and **vehicle traffic** into neighborhoods that would otherwise not experience the traffic. In neighborhoods with narrow lanes or parcels smaller than one acre, there may be too many cars and vehicles. Without adequate parking these spill out onto common driveways and congest traffic.
2. **Solid waste** from grape crushing and liquid waste from washing barrels may not be properly disposed. Improper disposal of solid waste leads to attraction of pests, production of odors,. Improper disposal of liquid waste may create odors, cause erosion, or result in unsanitary stagnant ponding. If the solid waste cannot be disposed using composting, it may have to be hauled off-site to a landfill. This adds additional truck trips on neighborhood roads.
3. **Water usage** for barrel washing can be excessive if conservation practices are not used. Drainage onto neighboring property or public or private streets can be a problem.
4. **Noise** can be a problem in close proximity to neighbors. Noise is related to operating crush equipment or from associated events, such as concerts which some wineries have asked to have as part of the festival events associated with the wine making season. . As wineries grow they adopt more activities such as weddings, concerts, community functions and other commercial recreational ventures. Concerts usually generate noise and parking problems that may be compounded in neighborhoods where alcoholic beverages are being consumed.
5. There is a tendency for a successful **cottage industry winery to outgrow its neighborhood location** and become incompatible by virtue of an excess of activity, space requirements, including the need for new larger construction that is not compatible with the design and architecture of the existing residential

neighborhood, and traffic to transfer barrels and cases to other facilities, and to require more staff than originally intended or allowed. Larger wineries require more space. Larger wineries overshadow the intent of a neighborhood to be residential in character. As wineries grow they adopt more activities such as weddings, concerts, community functions and other commercial recreational ventures.

6. **Accessory or appurtenant use activities incompatible with normal residential neighborhood routines** such as tasting rooms, winemaker's dinners and limited events pose no great problems on large lots, but are on smaller lots where there may not be ample parking and where hours of operation or events may not coincide with the peace and quiet expected by neighbors. Wine tasting is usually accommodated on a Friday-Saturday Sunday schedule from 11:00Am until 5:00pm. These hours are not appropriate given other family activities that take place in residential neighborhoods on weekends.
7. **Odors and hours of operation** are two other issues related to wine-making. During the crush season, there may be around the-clock activity. Demands of picking and crushing are set by nature and the ripening of grape varieties where vineyards are providing the wine source in the form of fresh grapes [Cottage wineries also make wines from concentrate]. Around the clock activity may not be compatible with residential neighborhood due to noise and light into the evening hours or early in the morning hours.

Addressing these problems through the permitting process involves standards for Cottage Industries, Standards for winery operations and a clear understanding of terms being used. Staff recommends the following:

- Amend Title 21.06 "Definitions" (See EXHIBIT A)
- Amend Cottage Industry Standards (SEE EXHIBIT B)

The California Business and Professions Code (CBPC) also does not define the term, "Tasting Room," but does use a term that staff estimates may be its equivalent, "Licensed Branch Office." From the CBPC, Section 23390.5. (a) "As used in this section, "licensed branch office" means any branch office or warehouse, or United States bonded wine cellar located away from the licensed winegrower's or brandy manufacturer's place of production, or manufacture, for which a duplicate license has been issued." While no reference is made to tasting or consumption in this code section, Section 23356.1 (a) of the CBPC states, "A winegrower's license also authorizes the person to whom issued to conduct wine\_tasting of wine produced or bottled by, or produced and packaged for, such licensee, either on or off the winegrower's premises."

#### Existing Zoning Regulations applicable to the Wine Industry

**Residential Zoning – RDR, Rural Density Residential; LDR Low Density Residential; MDR Medium Density Residential; or, HDR High Density Residential**

*Low Density Residential Districts* - Section 21.14.030 of Title 21 allows (F) Accessory structures and uses appurtenant to any permitted use, (L) Home Occupations, and (N) Crop farming, tree farming viticulture and horticulture. With a Use Permit, Section 21.14.050 allows (V) Cottage Industries.

The question of whether a “micro-winery” proposal in residential districts could be operated consistent with the term “Cottage Industry” was addressed by the Board of Supervisors in the County review of a proposal by Frank Joyce (Chateau Christina) in October and December of 1996 (File #s 965148ZA and 965148PC). The Board confirmed that a micro-winery could be conducted within the provisions and parameters of a Cottage Industry in residential zones as defined by the County of Monterey Zoning Code.

Since this resolution has been passed, the County has approved approximately 15-20 Cottage Industry wineries. Only two have created a significant brouhaha with the surrounding neighborhood. Those were the Cottage Industry wineries in Carmel Valley on Via Milpitas. While this report focuses on definition and regulation of micro winery/brewery uses, the following discussions is provided for perspective and because the micro winery/ brewery issues have been problems only in Carmel Valley, but the regulations apply Countywide.

**Commercial Zoning – LC Light Commercial, HC Heavy Commercial, VO Visitor Serving/Professional Office**

*LC Light Commercial District* - LC Section 21.18.040 of Title 21 allows: (A) Changes of commercial uses within a structure provided the new use will not change the nature or intensity of the use of the structure. With an Administrative Permit, Section 21.18.050 allows (T) Accessory structures and uses appurtenant to any permitted use provided there is no intensification of the permitted use. With a Use Permit, Section 21.18.060 allows (I) Restaurants, (U) alcoholic beverage service within 200 feet of a residential district.

*HC Heavy Commercial District* - With a Use Permit, HC Section 21.20.060 allows: (F) Agricultural Processing Plants, (H) Hotels, Motels, restaurants and similar visitor facilities, (X) alcoholic beverage service within 200 feet of a residential district.

*VO Visitor Serving / Professional Office District* - With a Use Permit, VO Section 21.22.060 allows (A) Hotels, Motels, hostels, inns, (B) Restaurants and (Q) Alcoholic beverage service within 200 feet of a residential district.

**What is the direction of the Draft General Plan regarding wine oriented businesses in the Carmel Valley Plan Area?**

The Carmel Valley Area Plan section of the Draft General Plan has recently been updated on the County of Monterey’s General Plan Update website (March 11,2002). According to a statement posted on the website, “This revised draft of the Carmel Valley Area Section of the Draft Monterey County General Plan ..... more accurately represents the



recommendations of the CVLUAC than the original version of the Carmel Valley Area Section found in the Draft General Plan document (dated 12/18/01). (T)his revised Carmel Valley Area Section (dated 3/11/02) is considered to be the more definitive version. It includes changes to the Vision Statement as well as the policies for the Carmel Valley Planning Area.”

The following sections are cut verbatim from the Carmel Valley Area Plan section as shown on the County’s General Plan Update website.

**From the Vision Statement:** Hospitality and resort developments have also become part of Carmel Valley. There are a number of inns and the wine industry has begun to expand to include tasting rooms in different parts of the valley, attracting new visitors to the area. Managing growth and development pressures from the wine and hospitality industries, which also compete for limited resources, is a significant land use issue facing Carmel Valley.

**Carmel Valley LU-5. Viticulture** - It is the intent of the General Plan to maintain the wine industry and all of its related activities in Carmel Valley at 2001 levels for the duration of the Plan. This policy intent shall not “grandfather in” as legal prior uses inconsistent with applicable use permits. Monterey County has identified three “winery corridors” for further development, each of which is located in the southern Salinas Valley. Carmel Valley is not identified as a winery corridor. This is proper, as further development of the wine industry in Carmel Valley would be inconsistent with the goals of the Carmel Valley Planning Area, and would put undue stress on Carmel Valley’s already overburdened infrastructure to the detriment of the existing population. Segments of Carmel Valley Road are already at capacity; any road improvements shall be reserved for existing undeveloped legal lots of record, not for increased tourist traffic. The current and significant over-drafting of Carmel River waters limits increased water use by wineries and vineyards. Serious sewage and wastewater disposal problems in Carmel Valley likewise limit visitor-serving activities and events. Unlike South County, Carmel Valley is predominately a residential community, where expansion of the wine industry would intrude into residential neighborhoods.

**Carmel Valley LU-6. Wineries** - No new Full-Scale winery, or Artisan winery, or cottage industry winery in excess of 500 cases of annual wine production, nor expansion of an existing winery, shall be permitted in the Carmel Valley Planning Area.

**Carmel Valley LU-7. Winery Tasting Facilities** - No new Winery Tasting Facility nor expansion of an existing Winery Tasting Facility shall be permitted in the Carmel Valley Planning Area.



**Carmel Valley LU-8. Winery Adjunct Uses -** No new Winery Adjunct Use shall be permitted in the Carmel Valley Planning Area.

The Draft General Plan relative to the “Wine Corridor” concept

The Draft General Plan proposes three “Wine Corridor” trails in the Salinas Valley. The Wine Corridor concept is referred to the Toro Area Plan, Central Salinas Valley Plan and the South County Area Plan. No winery corridor or trail has been proposed for the Carmel Valley.

Other Sections of the Draft General Plan that reference the “Wine Industry.”

The following sections are cut verbatim from the Draft General Plan Update website.

**Land Use Element**

*Policy LU-7.24 Designated Winery Corridors* – The County shall designate three winery corridors within the Salinas Valley to promote the processing and marketing capabilities of the industry and to more fully utilize the wine grape production already existing within the County. The three designated winery corridors are: 1) Central Arroyo Seco/River Road Corridor, 2) Metz Road Corridor, and 3) Jolon Road Corridor. ..

This Policy is not intended to limit the development of Wineries. Wineries outside of the designated winery corridors and additional wineries within the corridors are subject to conformance with the regulations of the underlying zoning district.

**Circulation Element**

A wine tour corridor along River Road, Fort Romie Road, Paraiso Springs Road, Metz Road, Central Avenue, and Jolon Road has also been included in the Circulation Plan.

**Agricultural Element**

*Policy AG-3.1. Promote Agriculture Industry* – The County shall work with agricultural industry organizations to promote a healthy and competitive agricultural industry whose products are recognized as being produced in Monterey County.

*Policy AG-3.2. On-Site Agricultural Sales* – The County shall allow marketing and sale of agricultural products grown on the premises in agricultural areas.

*Policy AG-3.3. Wine Industry Expansion* – The County shall support the development of a fully integrated wine industry that has the processing, marketing and sales capacity to fully utilize the wine grape production of the County.

*Policy AG-3.4. Visitor Serving Winery Corridors* – The County shall support the development of the visitor serving winery corridors designated in the Land Use Element. These corridors shall accommodate new wineries and visitor serving uses that are accessory to a winery on-site, such as a tasting room, sale of wine and wine related items, delicatessen, and small gatherings.

The draft policies of the Agricultural Element support the wine industry as a *whole* in Monterey County –The General Plan would provide policies to address the appropriateness of Cottage Industry micro wineries/breweries based upon resource and infrastructure constraints throughout the County.

### Conclusion

This report on wine/beer-based Cottage Industry regulations has brought forward the current definitions of terms, the scale and type of business activity, existing zoning regulations applicable in residential and commercial districts, and the direction and proposed land use policies of the draft General Plan. Staff has suggested possible ordinance amendments to improve the understanding of micro wineries/breweries and to assist in consideration of those uses as Cottage Industries. See attached EXHIBITS A and B.

## EXHIBIT A

### **21.06.055<sup>0000000000</sup> ALLOWED USES**

As used in this title, an allowed use is a use that does not require a discretionary permit. It is a use ordinarily expected and condoned in the zone in which it is located. Such use may require ministerial permits such as encroachment permits or building permits. An example of an allowed use is the production of 200 or less gallons of wine or beer made in a home for home consumption and not for sale or commercial tasting.

### **21.06.220 COTTAGE INDUSTRY.**

Cottage industry means a business in a residential area conducted primarily by the residents of the property manufacturing artistic, handicraft and other craft items. Micro wineries/breweries as defined in 21.06.1400 may be considered as Cottage Industries pursuant to the standards set forth in 21.64.095

### **21.06.1400 WINERY.**

Winery means an agricultural processing plant used for the commercial purpose of processing grapes, other fruit products or vegetables, to produce wine or similar spirits. Processing includes wholesale sales, crushing, fermenting, blending, aging, storage, bottling, administrative office functions for the winery and warehousing. Retail sales and tasting facilities of wine and related promotional items may be permitted as part of the winery operations. Micro Wineries and Breweries are facilities that produce more than 200 gallons of wine or beer, but not more than 1200 gallons per year. Micro winery and brewery facilities shall be located only on parcels of 1.0 acres or larger and shall not have public tasting rooms when located in residential zoning districts. These facilities are permitted as Cottage Industries in zones that allow Cottage industries (see 21.06.220 and 21.64.095.

## **EXHIBIT B**

### **21.64.095        REGULATIONS FOR COTTAGE INDUSTRY**

A.        Purpose: The purpose of this Section is to establish the regulations, standards and circumstances under which businesses of limited scale and impact may be established in all zoning districts where a single family dwelling is an allowed use. It is the further purpose of this Section to provide for standards, review processes and review periods to assure that such uses are not detrimental to the residential property in the area in which they are established.

B.        Applicability:        The provisions of this Section are applicable in all areas of the County.

C.        Regulations:        A Cottage Industry may be conducted in any zoning district which allows residential use, subject to the following standards.

1.        All Cottage Industry shall require a Use Permit pursuant to Chapter 21.74. The Zoning Administrator is the Appropriate Authority to consider such Use Permit.

2.        A total of two persons, other than the resident and immediate family residing on site, may be employed in the cottage industry.

3.        There shall be no advertising for the cottage industry on the property, except for such advertising as may be incorporated within the four square foot nameplate allowed for the residence. The location and design of such nameplate shall be subject to the approval of the Zoning Administrator.

4.        Adequate access and parking must be provided on-site to accommodate the residential use, employees and two customers of the cottage industry.

D.        All Use Permits issued for Cottage Industry shall be subject to the following time limits:

1.        The initial Use Permit shall not be issued for more than one year,

2.        The second Use Permit shall not be issued for more than three years; and

3.        The third and subsequent Use Permits shall not be issued for more than five years.

The purpose of these time limits is to provide adequate on-going review of the Cottage Industry to assure that the use continues to meet the standards of this Section, that the nature of the area has not changed sufficiently to cause the use to be detrimental to the area, and to review the conditions of the prior Use Permit to determine their continuing adequacy.

E. The Zoning Administrator shall not approve a Use Permit for Cottage Industry unless the following findings, in addition to those required by Chapter 21.74, can be made:

1. That the proposed use is consistent with all policies in the General and Area Plan applicable to the parcel upon which the use will be conducted.

~~2.~~ That the proposed use conforms to the requirements of Section 21.64.095(C);

~~2.3~~ That the site is physically suitable for the project;

~~3.4~~ That adequate sewer and water service exists or can be provided;

~~4.5~~ That adequate road and transportation facilities exist for the use;

~~5.6~~ The use proposed is compatible with the area;

~~6.7~~ That the subject property complies with all zoning standards, such as height, setbacks and lot coverage, subdivision standards and that no zoning violations exist on the property; and

~~7.8~~ Impacts considered potentially significant are mitigated.

## Friedrich, Michele x5189

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**From:** Molly Erickson <erickson@stamplaw.us>  
**Sent:** Monday, February 3, 2020 4:51 PM  
**To:** Ron DeHoff  
**Cc:** Najjar, Diana x5421; Friedrich, Michele x5189; Silveira, Felicia M. x4878; Novo, Mike x5176; Dugan, John x6654  
**Subject:** Feb. 5, 2020 GMP LUAC meeting, item 2: PLN180257, Hidden Valley Road, Carmel Valley – comments on application and on CEQA initial study  
**Attachments:** 20.01.02.TOMP.ltr.to.County.re.Hidden Hills.PLN180257.pdf;  
20.02.03.SE.ltr.to.GMP.LUAC.re.PLN180257.pdf

[CAUTION: This email originated from outside of the County. Do not click links or open attachments unless you recognize the sender and know the content is safe. ]

Chair DeHoff:

I represent The Open Monterey Project (TOMP), which on January 2 submitted comments in response to the County's initial study for this project. I have not received any response from the County RMA. County RMA did not send you my letter as part of the LUAC packet. RMA also did not send you the initial study. Thus, I attach the past TOMP comments along with additional TOMP comments in a letter dated February 3, 2020 addressed to the GMP LUAC for your February 5 meeting.

Ms. Najjar, Ms. Friedrich, Ms. Silveira: Please promptly forward this email and attachments to the GMP LUAC members, and please let me know you have done that. I do not have their email addresses. Thank you.

Regards,

Molly

Molly Erickson  
**STAMP | ERICKSON**  
479 Pacific Street, Suite One  
Monterey, CA 93940  
tel: 831-373-1214, x14





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February 3, 2020

Via Email

Ron DeHoff, Chair  
Greater Monterey Peninsula LUAC

Re: Feb. 5, 2020 GMP LUAC meeting, PLN180257, Hidden Valley Road,  
Carmel Valley – comments on application and need for Planning  
Commission review of this project

Dear Chair DeHoff and members of the Greater Monterey Peninsula LUAC:

My clients The Open Monterey Project respectfully present these comments.  
For decades TOMP has been involved in the public interest with issues around wineries  
and land use in Carmel Valley. Issues raised by this project application include:

- The proposed winery building would be used to process and produce wine for commercial sale.
- Wineries are not a permitted use at this site under the LDR zoning district.
- Wineries are not cottage industries under the County Code, and the County initial study claim to the contrary is inaccurate.
- The Agricultural and Winery Corridor Plan (AWCP) of the 2010 County General Plan has designated locations to encourage wineries: in the River Road, Metz Road and Jolon corridors, all in the Salinas Valley areas. The site is not in the 2010 General Plan winery corridor. The General Plan says this: "Wineries outside of the designated Agricultural and Winery Corridor are subject to conformance with the regulations of the underlying zoning district." (Section 4.2.)
- Wineries foreseeably could include industry-wide events, advertised fund raising events, winemaker dinners (for invitation only, subscriptions, and open to the general public), weddings, and private events such as private or company holiday parties, as shown by the discussion in the 2010 General Plan and its Agricultural and Winery Corridor Plan.
- The cumulative impacts of allowing wineries in the Carmel Valley/Corral de Tierra area would be potentially significant and would require an EIR. The 2010 General Plan states this: "Winery development within the corridor not processed under this Plan, or winery facilities outside of the corridor, must evaluate cumulative impacts of adding said facility to the buildout of the AWCP." (Agricultural and Winery Corridor Plan, § 4.3.)





For helpful direction on some of the issues presented by this application, you may want to review these opinions:

- *Neighbors In Support of Appropriate Land Use v. County of Tuolumne* (2007) 157 Cal.App.4th 997 (rejecting a County's ad hoc exception allowing a special event use in an agricultural zoning district)
- *Keep Our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714 (rejecting a County's mitigated negative declaration for a special events use in the Santa Cruz mountains; EIR required)

Wineries are not allowed in the Low Density Residential zoning district.

The application is for a winery structure, a crush pad, a wine cave, and use as a winery. The project is not consistent with the adopted plans and zoning. The LDR zone does not list "winery" as an allowed use. (County Code, Ch. 21.14 REGULATIONS FOR LOW DENSITY RESIDENTIAL ZONING DISTRICTS OR "LDR" DISTRICTS.) The County zoning code defines "winery" as follows:

21.06.1400 WINERY.

Winery means an agricultural processing plant used for the commercial purpose of processing grapes, other fruit products or vegetables, to produce wine or similar spirits. Processing includes wholesale sales, crushing, fermenting, blending, aging, storage, bottling, administrative office functions for the winery and warehousing. Retail sales and tasting facilities of wine and related promotional items may be permitted as part of the winery operations.

The proposed winery structure would be an agricultural processing plant in a residential zone.

21.06.020 AGRICULTURAL PROCESSING PLANT.

Agricultural processing plant means a structure, building, facility, area, open or enclosed, or any other location for the refinement, treatment, or conversion of agricultural products where a physical, chemical or similar change of an agricultural product occurs. Examples of agricultural processing include but are not limited to, coolers, dehydrators, cold storage houses, hulling operations, and the sorting, cleaning, packing, and storing of agricultural products preparatory to sale or shipment in their natural form including all customarily incidental uses. Agricultural processing plants include wineries.





The proposed winery is a commercial structure.

The proposed winery is not a barn or an structure accessory to the residence.

The RMA has used the terms "outbuilding" and "barn" for this application and the terms are misleading and inaccurate under the County Code. Let there be no mistake: the proposed structure is a winery. You should reject the RMA's inaccurate use of the term "out-building (barn)." The County has used the word "barn" improperly in misleading ways that appear to be intended to avoid the required environmental and planning analysis. The last time the County published a notice for this project, the RMA called the large new structure a "winery." Now the RMA has renamed the winery as a "barn." My clients sincerely hope that the County RMA is not deliberately trying to avoid scrutiny of projects by calling them "barns" regardless of foreseeable actual use.

The LDR zone does not list "winery" as an allowed use. It might be argued that the LDR district by implication might permit "Accessory structures used as barns, stables or farm out buildings" but these are listed under site development standards, not under uses allowed. The proposed winery is not a barn, a stable, or a farm out building. It is not an accessory structure or use under the County Code definitions because the winery is not subordinate and incidental to the main residential structure, and a winery is not customarily part of a residential use. The structure and its use are consistent with the Zoning Code definitions of accessory use and accessory structure because the winery. The definitions require that the new structure be "incidental to" the main structure, which is the residence, and that the winery use be "customarily part of the permitted use" and "clearly incidental" to the permitted use and that "does not change the character of the permitted use." That is not the situation here in this residential zone. A house with a winery is very different from a house without a winery.

#### 21.06.1230 STRUCTURE, ACCESSORY.

Accessory structure means a subordinate structure, the use of which is incidental to that of a main structure on the same building site, including but not limited to caretaker quarters, guesthouses, farm employee family housing facilities, farm worker housing facilities, and employee housing accessory to an allowed use.

#### 21.06.1330 USE, ACCESSORY.

Accessory use means a use accessory to and customarily a part of the permitted use, clearly incidental and secondary to the permitted use and which does not change the character of the permitted use.

Nothing would require the existing home to be occupied by full-time residents.



The proper focus should be on the land use.

A vineyard is a vineyard. A winery is a winery. The ownership is immaterial.

The County initial study claims of a "private winery" are meaningless. The Zoning Code does not distinguish between "private" wineries and "private" vineyards, on the one hand, and commercial wineries and vineyards, on the other. This is because there is no difference from a land use perspective. E & J Gallo Winery is the largest family-owned winery in the United States. (<http://www.gallo.com/files/Gallo-Company-Fact-Sheet-2016.pdf>) (McCallion, Ruari. "Gallo Glass Company: Top of the glass". The Manufacturer. Archived from the original on June 10, 2011. Retrieved December 31, 2009.) Similarly, Scheid Family Wines is still family-run, as are Pisoni Family Wines, Hahn Family Wines, and other examples show that many vineyards are essentially "private" and many are "family run." However, that is not a meaningful land-use distinction. The land use impacts of a commercial winery, a "quasi-commercial" winery, and a family-run winery are largely the same.

The grape growing and the winery facility are agricultural uses. The grapes and/or the wine can and are proposed to be sold for commercial purposes, and the County would be unable to enforce any meaningful limits on it. The existing vineyards on the parcel as well as the proposed vineyards on the parcel are likely to produce thousands of cases of wine annually.

"1 ton of grapes yields about 60 cases or 720 bottles. If you put all that together, a very low-yielding vineyard that produces 2 tons per acre makes about 1,440 bottles, or 120 cases, while an acre that yields 10 tons produces about 7,200 bottles, or 600 cases."  
(<https://www.winespectator.com/articles/how-many-bottles-of-wine-are-made-from-1-acre-of-vineyard-5350>)

An applicant's promises should not be relied on because the promises have not been made into enforceable conditions and mitigations. In any event, the County's ability, funding, and desire to enforce detailed conditions is not reliable. An applicant's promises do not bind future owners of the property in any event. In this case, the Hidden Valley Road applicant is an LLC and its members can change without any discretionary review by the County. The proper focus is on the proposed land use, not the ownership. The County historically has not treated wineries differently depending on who the owner is – e.g., a corporation, a private individual, a non-profit. The County started out from the beginning by treating this application differently by calling it "family winery." After TOMP commented on this unsupported new approach, the County changed tack and now is calling this application a "private" winery. This is new approach is not supported. The instant applicant is a corporate entity. A different corporate entity could purchase the property and continue and expand the winery use.





The details of corporate ownership are invisible to the County; the individual owner(s) could sell their ownership interests to others, and the County may not ever know. The County is unlikely to enforce against the type of ownership in any event, even if it could and was authorized to do so. The County has not regulated who is a "family" in a land use context and cannot meaningfully enforce any requirement of "family ownership" in any event. The winery could become publicly owned in whole or in part, and the County would not enforce against that, either.

The County has proposed the condition below which is ineffective and unenforceable. There is no definition of commercial wine tasting."

COMMERCIAL WINE TASTING / SPECIAL EVENT DEED  
RESTRICTION (NONSTANDARD)

Prior to issuance of building or grading permits, a notice shall be recorded with the Monterey County Recorder for parcel 185-051-019 which states: "Consistent with the approval of PLN180257, the subject property shall not be used as a venue for commercial wine tasting or special events."

A winery is not a "cottage industry" under the County Code.

A winery is not a cottage industry, which is defined as "a business in a residential area conducted primarily by the residents of the property manufacturing artistic, handicraft and other craft items." (County Code, § 21.06.220.) A winery is not an artistic, handicraft or craft item. Neither the ZA nor the Planning Commission has the authority to expand the definition of cottage industry beyond that stated in the Code.

The proposed winery is a habitable structure, and as a third habitable structure it is not permitted at this site under the LDR zoning district.

A barn is a non-habitable accessory structure, similar to a storage structure according to the County Code. (E.g., §§ 21.30.030, 21.32.030, 21.34.030.) In contrast, the proposed winery, renamed a "grape processing barn," is habitable. It has at least one full bathroom, at least one full bedroom space, an interior kitchen, an exterior kitchen, a large living room with tall windows, a large fireplace, and french doors to an expansive terrace with an exterior kitchen. The so-called "barn" is habitable under the County definition. The Monterey County Environmental Health Bureau uses the following definition of Habitable from Chapter 18.14.020 Definitions "U. Habitable Space. Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces." (Sept. 3, 2019 email from Mr. Van Horn.)



The proposed barn main floor, showing the full bathroom, kitchen, living area with fireplace, with water feature outside to the right. Upstairs is a 530-square foot loft with windows on three sides. The proposed new structures total 3,850 sf plus some 20,000 sf of patios, driveways, and pathways, plus conversion of acres of undeveloped slopes into vineyards.

The property already has at least two existing dwelling units, according to public records. The plans for this application show the existing main house and the existing second single family dwelling that is identified on the drawing as "SECOND SFD". A third habitable unit (the proposed winery) is not allowed under the LDR zoning district.

The water and grading analysis is inaccurate, inadequate and incomplete.

The initial study states that "Water for the [proposed] structures will be provided by Cal-Am's Hidden Hills Water System" (at p. 9). There is no proposed mitigation that would prohibit the applicant from using Cal Am water for the new vineyard and the proposed winery uses. Given that fact, the County RMA has not explained how the project could be allowed in light of the acknowledged *zero water rights* available to Cal Am Hidden Hills unit under the Seaside Basin adjudication. Cal Am has applied to the California Public Utilities Commission for a moratorium in the Hidden Hills area. The fact that the moratorium has not yet been granted is not material. It is material that there are no water rights to serve this project, and nothing that would prohibit the project from using Cal Am water. There is no mitigation requiring the property to cease its existing usage of Cal Am water from the Hidden Hills system, contrary to the claim in the initial study (at p. 23). The assumptions made by the initial study are not enforceable. This means that post-project water usage may be much higher than the amount analyzed in the initial study, resulting in unanalyzed and unmitigated impacts.

The construction of the pond (a reservoir for water storage) is not exempt from grading permits. (County Code, § 16.08.040.J.) The project description should include grading permit and include the amount of grading for the proposed reservoir and the new vineyards, in addition to all other grading including for the winery building, crush pad, the landscaping, the driveways, and the wine cave.

The County RMA confusion is regrettable and time consuming for all concerned.

Unfortunately the County RMA has been confused about how to process this application, which has dragged out the process unnecessarily for all parties. The County RMA first claimed the project was exempt and could be approved administratively. Then after my clients objected, the County claimed the ZA could approve the project. Eventually the RMA did an initial study and claimed a mitigated negative declaration. The LUAC staff report shows that the County is still claiming a ZA action is appropriate. This is not accurate because the County initial study states that



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Planning Commission action is required on a "Cottage Industry" permit for the proposed winery use. "The Winery use will require approval of a Use Permit by the Planning Commission as a Cottage Industry." (Initial Study at page 24.)

The Planning Commission should consider the project instead of the  
Zoning Administrator.

The Planning Commission in the first instance should review both (1) the draft environmental document that analyzes the entire project and (2) the combined County permits for the entirety of the proposed project. As the County Code states, "Should the Combined Development Permit include any permit normally considered by the Planning Commission, then the Planning Commission shall consider the entire Combined Development Permit ..." (County Code, § 21.76.030; see § 21.74.030.)

Request: please recommend denial.

Please recommend denial of the project due to the lack of consistency with the zoning district and neighborhood. Refer this project to the Planning Commission due to the winery that is not allowed in the LDR zone, the unenforceable water assumption and the lack of water rights, and the need for an EIR.

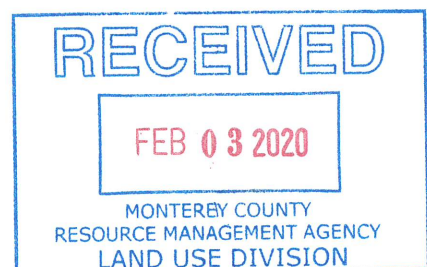
If the applicant wishes to proceed, then an EIR is required and cumulative impacts should be analyzed due to the inconsistencies with the General Plan and the zoning ordinance. Assumptions and conditions should be proposed to be implemented through enforceable mitigations that would bind the current and future property owners. Thank you.

Very truly yours,

STAMP | ERICKSON

*Molly Erickson*

Molly Erickson



cc: Mike Novo, Zoning Administrator; John Dugan, RMA Deputy Director;  
RMA support staff (for distribution)

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January 2, 2020

County Planning Commission  
Carl Holm  
Brandon Swanson  
County of Monterey



Subject: PLN180257, Hidden Valley Road, Carmel Valley – comments on CEQA  
initial study

Dear County Planning Commission:

My client The Open Monterey Project has asked me to provide the following comments.

The County has taken a unwise and anti-public approach by circulating the initial study starting the afternoon before Thanksgiving and ending the day the County reopens after its lengthy winter break. The County has been closed two thirds of the circulation period, and the County has not been available. The County's schedule has the effect of chilling public involvement. The County action is an eery echo of the ugly approach taken by the RMA historically. For example, past planning director Alana Knaster specifically directed a public review period to run at the most inconvenient time for the public. She said: "I want the 45 days to start before Thanksgiving and end right after New Years." RMA Director Holm has taken a similar anti-public approach. While the County staff is on vacation, the County expects public to use its vacation to review the draft County/applicant document. During that time the County has not been available for questions, my clients could not access the paper copy of file and references.

The initial study is muddled, confused, internally inconsistent, and contains material omissions that are fundamental flaws. The IS inconsistently uses the term mitigated negative declaration and negative declaration, which confuses my clients and other members of the public, and decision makers.

The proposed MND is incorrect when it states that the decision maker is the Zoning Administrator. That is not accurate. The Planning Commission is the decision maker for all cottage industry permits. It should be considered as a whole by the Planning Commission. The project cannot be piecemealed under CEQA or within the zoning code under several permits.

The initial study and proposed MND contain many material inaccuracies and flawed analyses, including the following. The errors and omissions make the document inadequate under CEQA. It should be revised and recirculated. The comments in this letter are made under general titles and the titles are not intended to limit the breadth and scope and meaning of the comments.



Inaccurate project description:

- Fails to identify and disclose the required use permit for the Cottage Industry. Instead, lists only the admin permit and design approval.
- The grading information is stated inconsistently throughout the document. The MND cover page claims 1815 cut and 2150 fill. Elsewhere the document claims claimed 2500 cut and 2500 fill (e.g., pp. 22, 33). The IS does not provide support for the claimed figures by a qualified engineer.
- The grading is not quantified adequately by project element. The disclosed grading fails to identify, quantify and analyzes the impacts of the grading for the lined pond/reservoir, the size of the reservoir, and the grading that has already taken place for the conversion of slopes.
- Fails to include the after-the-fact permit for conversion of acres of 15-24% slope to vineyard, which was apparently done without the required permit and reports and conditions.

Land use:

Wineries and wine processing facilities are not permitted uses in the LDR zone. The IS fails to discuss this. There are specific areas identified for winery uses in the General Plan. The project site is not in one of those specific designated areas. The proposed project would have significant cumulative impacts as a precedent.

The initial study claims that the project will produce 3600 bottles of wine and involve wholesale commercial sales from the project site. The initial study should place as mitigations many of the assumptions that the analysis makes about this site.

The IS makes confusing and inconsistent statements about “existing vineyards.” (E.g., pp. 5, 7, 22, 26.) The IS should clearly state which vineyards were -re=existing the application, and which have been recently converted without benefit of permit and thus are seeking an after-the-fact permit through this application. The County has lumped them all together in a misleading way.

Unless they are enforceable conditions and mitigations, the project could have significant impacts that have not been analyzed and mitigated.

The suggestion that the winery should be treated differently because it is “private” and run by a “family” (e.g., p. 32) are misleading and meaningless. Scheid is family run, as is Gallo. The claims have no relevance to any land use concerns. The claims neither predict nor ensure any level of impacts. Numerous wineries and vineyards are owned by families. Gallo is perhaps the most well known. Gallo is a huge





operation in Monterey County and elsewhere. Its land uses can and do have major impacts on the environment. Additional examples of family operations are Scheid Vineyards, Pisoni Family, Hahn Family, J Lohr Vineyard and Wines, and more.

Nothing prevents a family operation from being a corporate entity or from being publicly traded. Nothing limits the size of a family operation. Nothing controls the water that a “family” operation uses, or the noise, traffic, lighting, or other. The Hidden Valley project is owned and proposed by an LLC, or limited liability corporation.

The conclusions in the IS are not supported by any biological analysis by an expert. They are not meaningful and should be disregarded.

There are no legible and meaningful drawings of the complete proposed project provided attached to the IS, as CEQA recommends/requires, and no map showing the various scenic and conservation easements and slope protection easements. Absent that information, my clients are unable to comment, which prejudices them.

The IS Fails to state that the project would require a permit from the Regional Water Quality Control Board for waste discharge and another permit for the reservoir and water storage.

Water use:

The IS fails to disclose the location of the existing water well permitted improperly in September 2019.

To make matters worse, the County improperly issued a ministerial permit for the well in September 2019 (IS, p. 27), during the pendency of the project application and before the initial study was prepared and circulated. This is a material procedural error by the County. The entirety of the project must be considered. The County may not piecemeal the CEQA review, but that is what the County did here. The IS fails to analyze the impacts of the well.

It appears that the well may not be on the same property, and a permit is required to cross property lines and for other reasons, if the water can be used at all at a different property.

The IS fails to provide baseline water usage at the site and how the proposed usage would change that. It is not meaningful to provide merely an estimate of what the applicant proposes would be used by the new uses. The IS fails to ensure that those assumptions are placed as mitigations on the property. Absent those enforceable mitigations and conditions, the project could have significant impacts that have not been analyzed and mitigated as CEQA requires. Now is the time to place those mitigations. Otherwise, current LLC could sell to another LLC or a different corporation, and the County’s sloppy and unconditioned permit reasonably foreseeably



could be acquired by a large commercial operation that does not follow the mere representations of the current applicant.

The IS fails to present a meaningful discussion of the reasons why Cal Am has sought a moratorium on new Hidden Hills connections: because Cal Am is materially exceeding its allowed pumping. It is no excuse to claim that the CPUC has not yet issued the moratorium. The IS is required to look at the environmental impacts of pumping, not merely the regulatory limits. This IS has not met the CEQA requirements, and no significance criteria are identified and applied to the project.

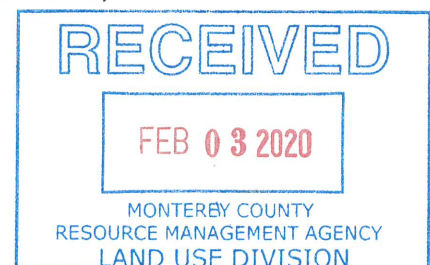
Lack of required mitigations:

The assumptions that the IS relies on for its analysis and conclusion must be placed into enforceable and meaningful mitigations. These include:

- No more than 2 employees
- Timing of travel trips
- Water use
- Use of reservoir water
- Abandonment of Cal Am / Hidden Hills water use, or a specified maximum use that is no greater than current baseline (pre-project application).
- Conversion to dry farming in perpetuity after three years. Merely claims that the vines “can be” dry farmed is not the assurance that CEQA requires as a reasonable good faith analysis of impacts.
- Prohibition on any water use for the vineyard in August and September. Alternatively, the IS should be corrected to include the calculations for water use in August and September which are omitted from the analysis in the IS.
- Prohibition on use of the barn, wine cave, exterior space, vineyards, and the entire property to ensure no events, no public usage and no wine tasting.

Transportation:

The IS fails to disclose the number of trips before and after the project, and how the applicant would ensure that the trips are made outside of peak hours, and how that would be monitored by the County.





Energy:

The energy situation fails to discuss the energy of pumping water from the reservoir for irrigation purposes.

There is no disclosure of existing or proposed solar energy sources. There is a mere allusion on IS page 9 that contains insufficient quantification of baseline or proposed use. Does the solar exist, and if so where is it on the site, and is it sufficient for the entire operation? Is PG&E power used now? Is new construction required for solar power?

The archeological condition is a mitigation to prevent significant impacts. It should be described as a mitigation.

The project is a commercial activity, make no mistake.

Interest of The Open Monterey Project

The Open Monterey Project (TOMP) is an unincorporated association founded in 2002 and dedicated to transparency and accountability in public decision making, primarily in land use, and is directly involved in promoting governmental understanding and compliance with the California Environmental Quality Act ("CEQA," Pub. Resources Code, § 21000 et seq.). TOMP actively participates in the review of land use and water issues by the County of Monterey, as well as cities and public agencies throughout the County. TOMP was a successful petitioner in *Bernardi v. County of Monterey* (2008) 167 Cal.App.4th 1379 and in *Save Our Carmel River v. Monterey Peninsula Water Management District* (2006) 141 Cal.App.4th 677, among other CEQA and CPRA cases.

Thank you for considering these comments. Please add TOMP to the notification list for this project, including all notification under Public Resources Code section 21092.2.

Sincerely,

STAMP | ERICKSON

*Molly Erickson*

Molly Erickson