

**PLANNING COMMISSION
COUNTY OF MONTEREY, STATE OF CALIFORNIA**

RESOLUTION NO. 02036

A.P. # 165-012-001-000

FINDINGS AND DECISION

In the matter of the application of
San Saba Winery (PLN970469)

for a Use Permit in accordance with Title 21 (Zoning) Chapter 21.74 (Use Permits) of the Monterey County Code, for a 5,600 square foot winery building, 2,400 square foot office and wine tasting building and related site work, located at the intersection of River Road, Foothill Road and Fort Romie Road, Soledad area, came on regularly for hearing before the Planning Commission on June 12, 2002.

Said Planning Commission, having considered the application and the evidence presented relating thereto,

FINDINGS OF FACT

1. **FINDING:** The Use Permit for **San Saba (PLN970469)** allows for construction of a 5,600 sq. ft. two-story (38 foot high) winery, a 2,400 sq. ft. office/tasting room and 1310 cubic yards of grading. The property is located at 35801 Foothill Rd (Assessor's Parcel Number (Assessor's Parcel Number 165-012-001-000), Soledad area, Central Salinas Valley Area Plan. The project, as described in condition #1 and as conditioned, conforms to the plans, policies, requirements and standards of the General Plan, the Central Salinas Valley Area Plan and the Monterey County Zoning Ordinance (Title 21). The parcel is zoned "F/40" or Farmlands – 40 acre minimum. The site is physically suitable for the use proposed. The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of Title 21. Zoning violation abatement costs, if any, have been paid.
EVIDENCE: The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with the General Plan, the Central Salinas Valley Area Plan and Title 21 (Zoning Ordinance).
EVIDENCE: The proposed development has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works Department, Environmental Health Division, Parks Department and the Mission/Soledad Fire Protection District. There has been no indication from these agencies that the site is not suitable for the proposed development. Several agencies have recommended conditions for project approval.
EVIDENCE: Written and verbal public testimony submitted at the public hearing before the Planning Commission.
EVIDENCE: The application, plans, and support materials submitted by the applicant to the Monterey County Planning and Building Inspection Department for the proposed development in the project file.
EVIDENCE: Staff verification of the Monterey County Planning and Building Inspection Department records indicates that there are no violations on the property.
EVIDENCE: The on-site inspection by the project planner on December 4, 2001 to verify that the proposed project complies with the Central Salinas Valley Area Plan and will not result in a significant visual impact.
EVIDENCE: An Initial Study prepared by the Planning & Building Inspection staff in December 2001 does not identify any significant adverse environmental impacts.
2. **FINDING:** The proposed project, including all permits and approvals, will not have significant adverse impacts on the environment and a Mitigated Negative Declaration has been prepared. All

mitigation measures identified in the Initial Study and Negative Declaration and all project changes required to avoid significant affects on the environment have been incorporated into the approved project. Adoption of a Mitigation Monitoring Program for this project is necessary since some of the impacts identified in the initial study may potentially cause significant impacts unless mitigation measures are fully implemented prior to commencement of the use as a winery/tasting room.

EVIDENCE: The adoption of the Mitigated Negative Declaration and Mitigation Monitoring Plan reflects the independent judgment and analysis of the County based upon the findings and conclusions drawn in the Initial Study and in consideration of testimony and information received, and scientific and factual data presented as evidence during the public review process. Studies, data and reports prepared by staff from various County departments including Planning & Building Inspection, Public Works, Environmental Health, Water Resources and the Mission/Soledad Fire Protection District support the adoption of the Negative Declaration for the project. The custodian of the documents and materials that constitute the record of proceedings upon which the adoption of the Negative Declaration is based is the Monterey County Planning & Building Inspection Department located at 2620 First Avenue, Marina. No facts, reasonable assumptions predicated on facts, testimony supported by adequate factual foundation, or expert opinion supported by facts, have been submitted that refute the conclusions reached by these studies, data and reports. Nothing in the record alters the environmental determination, as presented by staff, based on investigation and the independent assessment of those studies, data and reports.

EVIDENCE: County staff prepared an Initial Study for the project in compliance with the California Environmental Quality Act (CEQA) and its guidelines. The Mitigated Negative Declaration and Mitigation Monitoring Plan provide substantial evidence that the project would not have significant environmental impacts. A Mitigated Negative Declaration was filed with the County Clerk and the State Clearinghouse for a 30-day public review and comment period which ended on January 8, 2002. All comments on the Initial Study have been received and considered as well as evidence in the record that includes studies, data and reports supporting the Initial Study; additional documentation requested by staff in support of the Initial Study findings; information presented during public hearings; staff reports that reflect the County's independent judgment and analysis regarding the above referenced studies, data, and reports analyzed as part of the environmental determination.

3. **FINDING:** Considering the record as a whole, there is no evidence that the project will have potential for adverse effect either individually or cumulatively on wildlife resources as defined under Section 759.2 and 711.2 of the Fish and Game Code. As a result, this project does not qualify for an exemption to the Fish and Game fee requirement.

EVIDENCE: The administrative record as a whole contains the following information to support the above finding. The property is currently used as a vineyard, although the area proposed for development is clear of vegetation. There is no evidence that the project, as a whole will have the potential for significant adverse effect either individually or cumulatively on wildlife resources, including riparian areas, wetlands, native or non-native plant life, rare and unique plant life, threatened, protected, special status or endangered plants or animals or their habitats, marine terrestrial species or biological diversity as defined under Sections 759.2 and 711.2 of the Fish and Game Code. However, there is the potential for some minor and insignificant impact to occur. Therefore, payment of the fee is required.

4. **FINDING:** Julie Engell appealed the decision of the Zoning Administrator to the Planning Commission. The Planning Commission finds no basis for the appeal and upholds the decision of the Zoning Administrator based on the above findings.

EVIDENCE: The above findings and evidence.

EVIDENCE: File, application materials, staff report to the Planning Commission dated June 12, 2002, and administrative record.

5. **FINDING:** The establishment, maintenance, or operation of the use or structure applied for will not, under the circumstances of the particular case, be detrimental to health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvement in the neighborhood, or to the general welfare of the County.

EVIDENCE: Preceding findings and supporting evidence.

6. **FINDING:** The Planning Commission decision is final.

EVIDENCE: Section 21.80.040.B of the Monterey County Zoning Ordinance (Title 21)

DECISION

It is the decision of the Planning Commission of the County of Monterey that the Mitigated Negative Declaration and Program for Monitoring and/or Reporting on Conditions of Approval be adopted and said application for a Use Permit be granted as shown on the attached sketch and subject to the following conditions:

1. The San Saba Use Permit (**PLN970469**) allows for the construction of a 5,600 square foot winery (38 feet in height), a 2,400 square foot office and wine tasting facility building, and 1,310 cu. yd. of grading. The San Saba Winery employs up to ten people, produces up to 40,000 gallons a wine per year, operates under standard operating hours and allows for public wine tasting and related activities. The property is located at 35801 Foothill Rd (Assessor's Parcel Number 165-012-001-000), Soledad area, Central Salinas Area Plan. The proposed project is in accordance with County ordinances and land use regulations, subject to the following terms and conditions. Neither the use nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless the appropriate authorities approve additional permits. (**Planning and Building Inspection**)

Prior to the Issuance of a Building Permit:

2. The applicant shall record a notice which states: "A permit (Resolution 02036) was approved by the Planning Commission for Assessor's Parcel Number 165-012-001-000 on June 12, 2002. The permit was granted subject to **25** conditions of approval, which run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits or commencement of the use. (**Planning and Building Inspection**)
3. Prior to issuance of a building permit, the applicant shall enter into an agreement with the County to implement the Mitigation Monitoring and/or Reporting Plan adopted for this project and pay the appropriate mitigation monitoring fee. (**Planning and Building Inspection**)
4. Pursuant to the State Public Resources Code, State Fish and Game Code and California Code of Regulations, the applicant shall pay a fee to be collected by the County of Monterey in the amount of \$1,275. This fee shall be paid on or before the filing of the Notice of Determination. Proof of payment shall be furnished by the

applicant to the Director of Planning and Building Inspection prior to the recordation of the final map, the commencement of use, or the issuance of building or grading permits, whichever occurs first. The project shall not be operative, vested or final until the filing fees are paid. **(Planning and Building Inspection)**

5. All exterior lighting shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The applicant shall submit 3 copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The exterior lighting plan shall be subject to approval by the Director of Planning and Building Inspection, prior to the issuance of building permits. **(Planning and Building Inspection)**
6. Prior to issuance of building permits, obtain a water supply permit from the Division of Environmental Health. **(Environmental Health & MM #2)**
7. Prior to issuance of building permits, submit a revised domestic wastewater disposal system design to the Director of Environmental Health for review and approval sized for employees, visitors, and banquet facilities. **(Environmental Health & MM #4)**
8. Winery wastewater shall be treated and used for vineyard irrigation. Prior to issuance of building permits, submit revised winery wastewater disposal plan to the California Regional Water Quality Control Board, Central Coast Region, for review and approval. **(Environmental Health & MM #5)**
9. All improvements to food service areas shall comply with the California Uniform Food Facilities Law as approved by the Director of Environmental Health. If the facility makes improvements to the food service areas, submit plans and necessary review fees for review and approval prior to obtaining a building permit/final inspection. **(Environmental Health & MM#3)**
10. Drainage improvements shall be constructed in accordance with plans by a registered civil engineer or architect, addressing on-site and off-site impacts, and the design of stormwater detention/sediment facilities. **(Water Resources Agency & MM# 6)**
11. Natural drainage shall be routed around proposed development and in a way that it does not impact downslope development, in accordance with plans by a registered civil engineer or architect. **(Water Resources Agency & MM# 7)**
12. Certification that stormwater retention facility has been constructed in accordance with approved plans shall be provided to the County Water Resources Agency by a registered civil engineer or licensed contractor who constructed the facility. **(Water Resources Agency & MM# 8)**

13. The applicant shall provide to the Water Resources Agency a water balance analysis describing the pre-development and post-development water use on the property. Any proposed increase in water use shall require the identification and implementation of mitigation measures, if feasible, by the applicant. **(Water Resources Agency & MM# 9)**
14. The applicant shall provide to the Water Resources Agency information on the water system to serve the project, including the location of all water wells on the property, any well logs available, and the number of current hookups. **(Water Resources Agency MM# 11)**
15. The applicant shall pay initial plan check fees to the City of Soledad prior to issuance of building permits by the County of Monterey. **(Mission/Soledad Fire Protection District)**
16. The applicant shall submit plans to the City of Soledad, Fire Marshall, for plan examinations and permit issuance regarding Fire District requirements. **(Mission/Soledad Fire Protection District)**
17. Applicant shall obtain an encroachment permit from the department of Public Works and construct a commercial driveway connection to Foothill Road. **(Public Works)**
18. Traffic or road maintenance fees shall be paid prior to issuance of any building or grading permits. **(Public Works)**
19. Construction:
 - a) Construction activities shall be limited to the hours specified by the County of Monterey noise ordinance.
 - b) All construction equipment powered by internal combustion engines shall be properly muffled and maintained.
 - c) Unnecessary idling of internal combustion engines shall be prohibited.
 - d) All stationary noise-generating construction equipment such as air compressors shall be located as far as practical from existing nearby residences. If equipment noise results in noise complaints, the equipment shall be acoustically shielded. **(Planning and Building Inspection, MM# 12-15)**

Prior to Final Building Inspection/Occupancy or Commencement of Use:

20. The applicant shall comply with Ordinance No. 3932 of the Monterey County Water Resources Agency pertaining to mandatory water conservation regulations. The regulations for new construction require, but are not limited to:
 - a) All toilets shall be ultra-low flush toilets with a maximum tank size or flush capacity of 1.6 gallons, all shower heads shall have a maximum flow capacity of 2.5 gallons per minute, and all hot water faucets that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water recirculating system.
 - b) Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices. **(Water Resources Agency & Planning and Building Inspection & MM# 10)**
21. The parking and circulation shall be approved by the Director of Planning and Building Inspection and the Director of Public Works. **(Public Works and Planning and Building Inspection)**
22. Applicant shall provide evidence of a bonded winery permit from the Bureau of Alcohol, Tobacco and Firearms and any permit from the State Department of Alcohol and Beverage Control for the tasting room. **(Planning and Building Inspection)**

Continuous Permit Conditions:

- 23. If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until it can be evaluated by a qualified professional archaeologist. The Monterey County Planning and Building Inspection Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. **(Planning and Building Inspection)**
- 24. Based on the capacity of the proposed winery wastewater system, wine making shall be limited to 40,000 gallons per year. If the proposed project exceeds or intends to exceed these limits, additional permits will be required. **(Environmental Health & MM# 1)**
- 25. The proposed facility shall comply with all applicable federal, state, and local regulations pertaining to fire prevention and access. **(Mission/Soledad Fire Protection District)**

PASSED AND ADOPTED this 12th day of June, 2002, by the following vote:

AYES: Errea, Sanchez, Hawkins, Pitt-Derdivanis, Diehl, Wilmot
 NOES: Brennan, Classen
 ABSENT: Parsons, Hernandez

Original Signed By:

 DALE ELLIS, SECRETARY

Copy of this decision mailed to applicant on

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning and Building Inspection Department office in Salinas.

2. This permit expires 2 years after the above date of granting thereof unless construction or use is started within this period.