

MIKE NOVO
CALIFORNIA
ZONING ADMINISTRATOR
MONTEREY

STATE OF
COUNTY OF

RESOLUTION NO. 030041

A.P.# 167-081-002-000

In the matter of the application of
Joel & Marilyn Burnstein (PLN030041)

FINDINGS & DECISION

for a Use Permit in accordance with Title 21 (Zoning) Chapter 21.74 (Use Permits) of the Monterey County Code, to allow for a winery and tasting room in an existing garage, with a maximum annual production of 2,000 cases per year, located at 645 River Road, approximately two miles northwest of the intersection of River Road and Chualar River Road, Toro area, came on regularly for hearing before the Zoning Administrator on July 10, 2003.

Said Zoning Administrator, having considered the application and the evidence presented relating thereto,

FINDINGS OF FACT

1. FINDING: The subject Use Permit, (PLN030041), as described in condition #1 and as conditioned, conforms with the plans, policies, requirements and standards of the Monterey County General Plan, Toro Area Plan and the Monterey County Zoning Ordinance (Title 21). The property is located at 645 River Road, Salinas Area. The parcel is zoned "F/40-D" (Farmlands, 40 Acres Minimum Building Site, with Design Control). 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, and any zoning violation abatement costs have been paid.

EVIDENCE: The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with:

- a) The Monterey County General Plan
- b) The Toro Area Plan
- c) Chapter 21.30 of Monterey County Zoning Ordinance regulations for the "F" Zoning District

EVIDENCE: The proposed development has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works Department and Environmental Health Department. There has been no indication from these agencies that the site is not suitable for the proposed use. Necessary public facilities are available to the project site. Staff verification of the Monterey County Planning and Building Inspection Department records indicated that no violations exist on subject property, as conditioned. Each agency has reviewed the application and some have recommended conditions of approval.

EVIDENCE: Project referral form, with recommendation for approval of the winery by the Toro LUAC on June 23, 2003, by a vote of 2-1, 1 absent.

EVIDENCE: Written and verbal public testimony submitted at public hearings before the Zoning Administrator.

EVIDENCE: The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in the project file, and in project file PLN030041.

EVIDENCE: The on-site inspection by the project planner on June 13, 2003 to verify that the proposed project complies with the Toro Area Plan.

EVIDENCE: Chapter 21.30 of Title 21 permits agricultural processing plants, which by definition include wineries (Section 21.06.020), in the F (Farmlands) zoning district with a Use Permit.

2. FINDING: County staff prepared an Initial Study for the project in compliance with the California Environmental Quality Act (CEQA) and its Guidelines. The Initial Study provided substantial evidence that the project would not have significant environmental impacts. A Negative Declaration was filed with the County Clerk on June 17, 2003. The following evidence has been received and considered: All comments on the Initial Study; 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; application materials, and expert testimony. Among the studies, data and reports analyzed as part of the environmental determination are the following:

1. Project Application/Plans/Interdepartmental Review Forms/Personal Communication
2. Monterey County General Plan, 1983 and as amended
3. Toro Area Plan, August 1983, and as amended
4. 2000 Air Quality Management Plan (Monterey Bay Unified Air Pollution Control District)
5. Department of Conservation, Division of the Mines and Geology
6. Planner Site Visit on June 12, 2003
7. Draft Environmental Impact Report / Environmental Impact Statement for the Salinas Valley Water Project, Monterey County Water Resources Agency, June, 2001
8. Burnstein – Remark Winery Trip Generation Study, Higgins Associates, April 15, 2003
9. Burnstein – Remark Initial Water Use / Nitrate Impact Questionnaire
10. Holman Ranch Winery – Estimated Vineyard & Winery Production Chart, November 7, 2002, accepted by Regional Water Quality Control Board in letter of December 20, 2002.
11. Soil Survey of Monterey County, April, 1978. United States Department of Agriculture, Soil Conservation Service
12. Personal communication with Matt Thomson, Regional Water Quality Control Board, on June 13, 2003.
13. Personal communication with project applicant on June 16, 2003
14. Personal communication with Roger Beretti, Environmental Health Department, on June 16, 2003
15. Monterey County ARC-IMS Geographic Information System
16. Monterey County Draft Existing Conditions Report for the Monterey County 21st Century General Plan Update, Anne Towner, October 12, 1999

EVIDENCE: 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: Studies, data and reports prepared by staff from various County departments including Planning and Building Inspection, Public Works, Environmental Health and Monterey County Water Resources Agency support the adoption of the Mitigation Negative Declaration for the project.

3. **FINDING:** That adequate sewage disposal and water supply facilities exist or are readily available to the site, as approved by the Director of Environmental Health.

EVIDENCE: Materials in file PLN030041.

4. **FINDING:** Adequate road and transportation facilities exist for the use.

EVIDENCE: The property is located on River Road, which is the main access road to the site.

EVIDENCE: The Public Works Department reviewed the proposed project, and has indicated no adverse traffic impacts will occur.

EVIDENCE: Materials in file PLN030041.

5. **FINDING:** The proposed winery is compatible with the area.

EVIDENCE: The project is located in a rural setting adjacent to row crop and grazing uses. The project has been conditioned to ensure compliance with the regulations for the Farmlands Zoning District set forth in Chapter 21.30 in Title 21.

6. **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: The project as described in the application and accompanying materials was reviewed by the Department of Planning and Building Inspection, Environmental Health Division, Public Works Department, and the Water Resources Agency. The respective departments have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood; or the County in general.

EVIDENCE: River Road generally operates at an acceptable Level of Service (LOS) "C" or better, and the segment of road on which the winery is located carries 2,900 vehicles per day. The winery will generate only five additional trips per day during weekends in the summer season, when the winery will be open for wine tasting. This additional traffic increase is therefore negligible.

EVIDENCE: Burnstein – Remark Winery Trip Generation Study, Higgins and Associates, April 15, 2003.

EVIDENCE: Wastewater generated by the winery will be used to irrigate future orchards on the property. As discussed in the environmental initial study, there is adequate area on the 10-acre parcel to dispose of this quantity process water. The small scale winery qualifies for a Small Winery Exemption from the Regional Water Quality Control Board, and is required to comply with standard wastewater disposal methods, as discussed in the initial study.

EVIDENCE: Personal communication with project applicant on June 16, 2003

EVIDENCE: Personal communication with Matt Thomson, Regional Water Quality Control Board, on June 13, 2003.

EVIDENCE: Row cropping and grazing uses surround the site, and staff did not observe any off-site residential uses close enough to the property to be potentially affected by odors from composting the two to three cubic yards of wine skins and stems resulting from the annual crushing.

EVIDENCE: The on-site inspection by the project planner on June 13, 2003 to verify that the proposed project complies with the Toro Area Plan.

EVIDENCE: There will be no significant noise increase as a result of the winery operation, because there will be no significant increase in traffic, the primary noise generating activity associated with the winery.

EVIDENCE: Site inspection by Planner on June 13, 2003.

EVIDENCE: Materials in file PLN030041

EVIDENCE: Preceding findings and supporting evidence.

7. **FINDING:** The project is appealable to the Planning Commission.

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

DECISION

THEREFORE, it is the decision of said Zoning Administrator that said Negative Declaration be adopted and that said application for a Use Permit be granted as shown on the attached sketch, and subject to the following conditions:

1. The subject Use Permit (PLN030041) is for a winery and tasting room in an existing garage, with a maximum annual production of 2,000 cases per year. The project is located 645 River Road, Salinas area (Assessor's Parcel Number 167-081-002-000), located approximately two miles northwest of the intersection of River Road and Chular River Road., in the Toro area. 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 additional permits are approved by the appropriate authorities. **(Planning and Building Inspection)**

2. The applicant shall record a notice which states: "A permit (Resolution 030041) was approved by the Zoning Administrator for Assessor's Parcel Number 167-081-002-000 on July 10, 2003. The permit was granted subject to 14 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)**

Prior to Commencement of Use:

3. 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)**
4. Submit evidence to the Division of Environmental Health that the Regional Water Quality Control Board has issued General Waste Discharge Requirements for Winery Waste or a waiver. **(Environmental Health)**
5. Prior to offering wine tasting, an additional 1,000 square feet of leach line shall be installed onto the existing septic system. **(Environmental Health)**
6. Fire Protection for Wine Storage - This wine storage room shall comply with the requirements of the Uniform Building Code and Uniform Fire Code, and Ordinances of the Salinas Rural Fire District for the occupancy classification determined by the Monterey County Planning and Building Inspection Department. Requirements include but are not limited to: exiting, exit signs, and fire extinguishers. Prior to the commencement of the use of the converted garage as a wine storage room, the driveway turnout, driveway turnaround, address numbers, exiting, exit signs, fire extinguishers, and building code requirements shall be met. **(Fire District)**
7. Prior to establishment of a tasting room, fire Protection for Wine Storage/Tasting Room Use - This wine storage and tasting room shall comply with the requirements of the Uniform Building Code and Uniform Fire Code, and Ordinances of the Salinas Rural Fire District for the occupancy classification determined by the Monterey County Planning and Building Inspection Department. Requirements include but are not limited to: exiting, exit signs, and fire extinguishers. Prior to the commencement of the use of the converted garage as a wine storage and tasting room, the driveway turnout, driveway turnaround, address numbers, exiting, exit signs, fire extinguishers, building code requirements, and fire protection system requirements shall be met. The fire protection system may be either:
 - a) a hydrant and water storage system consisting of fire flow at the rate of 1500 gallons per minute with a residual pressure of 20 psi for a duration of 2 hours; or
 - b) an approved residential fire sprinkler system throughout the entire building with water storage provided to support the residential fire sprinkler system flowing at the rate of two sprinklers for 10 minutes pursuant to the fire sprinkler system hydraulic calculations. **(Fire District)**
8. The roadway surface shall provide unobstructed access to conventional drive vehicles, including sedans and fire engines. Surfaces should be established in conformance with local ordinances, and be capable of supporting the imposed load of fire apparatus. **(Fire District)**
9. Roadway turnarounds shall be required on driveways and dead-end roads in excess of 150 feet of surface length. Required turnarounds on access roads shall be located within 50 feet of the primary building. The minimum turning radius for a turnaround shall be 40 feet from the center line of the road. If a hammerhead/T is used, the top of the "T" shall be a minimum of 60 feet in length. **(Fire District)**
10. Roadway turnouts shall be a minimum of 12 feet wide and 30 feet long with a minimum 25 foot taper at each end. **(Fire District)**

- 11. Driveways shall not be less than 12 feet wide unobstructed. All driveways exceeding 150 feet in length, but less than 800 feet in length, shall provide a turnout near the midpoint of the driveway. Where the driveway exceeds 800 feet, turnouts shall be provided at no greater than 400 foot intervals. **(Fire District)**

Continuous Permit Conditions:

- 12. Wine production shall be limited to 2,000 cases per year. **(Planning and Building Inspection Department)**
- 13. 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. **(Planning and Building Inspection Department)**
- 14. No onsite crushing of grapes or bottling of wine is to occur as part of this permit without further review and approval of the Division of Environmental Health. **(Environmental Health)**

PASSED AND ADOPTED this 10th day of July, 2003.

Original Signed By: _____

MIKE NOVO
ZONING ADMINISTRATOR

COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY TO THE PLANNING COMMISSION ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

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 two years after the above date of granting thereof unless construction or use is started within this period.