

**MINOR SUBDIVISION COMMITTEE
COUNTY OF MONTEREY, STATE OF CALIFORNIA**

RESOLUTION # 04001

MINOR SUBDIVISION NO. 020329

A.P. # 416-452-020-000

In the matter of the application of
Thomas G. Russell, TR (PLN020329)

FINDINGS & DECISION

for a Minor Subdivision in accordance with Chapter 19.04 of the Monterey County Code, consisting of a Combined Development Permit consisting of a Minor Subdivision Tentative Parcel Map for the subdivision of an existing lot of record of 20 acres into two lots of 10 acres each, and a Use Permit to allow the continued operation of a cottage industry winery as an accessory use prior to the establishment of a main use. The property is located at 505 Coral De Tierra Road, Salinas, Toro area, came on regularly for meeting before the Minor Subdivision Committee on January 8, 2004.

Said Minor Subdivision Committee, having considered the application and the evidence presented relating thereto,

- 1. FINDING:** The Minor Subdivision for the subdivision of an existing lot of record of 20 acres into two lots of 10 acres each, and the Use Permit to allow the continued operation of a cottage industry winery (File # PLN020329), as described in condition #1 and as conditioned, conform with the plans, policies, requirements and standards of the Monterey County Subdivision Ordinance (Title 19), the General Plan, Toro Area Plan, and the Monterey County Zoning Ordinance (Title 21). The property is located 503 and 505 Corral de Tierra Road, Corral de Tierra area (Assessors Parcel No. 416-452-020). The parcel is zoned RC/10-VS (Resource Conservation, 10-acres per unit, with Visual Sensitivity Overlay).

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

- a) Monterey County General Plan;
- b) Toro Area Plan;
- c) Chapter 21.36 and 21.46 of the Monterey County Zoning Ordinance; and
- d) Monterey County Subdivision Ordinance (Title 19) December 2000.

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 and Recreation Department, the Housing and Redevelopment Agency and the Salinas Rural Fire Protection District. There has been no indication from these agencies that the site is not suitable for the proposed development. The Initial Study demonstrates that no physical or environmental constraints exist that would indicate the site is not suitable for the proposed development. Each agency has recommended conditions for subdivision improvements.

EVIDENCE: Written and verbal public testimony submitted at public hearings before the Minor Subdivision Committee.

EVIDENCE: The Toro Land Use Advisory Committee recommended approval of the parcel map on April 14, 2003 (5-0 vote).

EVIDENCE: The on-site inspection of the subject parcel by the project planner in April, 2003.

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.

EVIDENCE: All structures and infrastructure necessary to serve the project are existing.

EVIDENCE: The project will conform with the requirements of the VS zoning district. No significant visual impacts will occur, because no new development is proposed with the subdivision. Additionally, a Use Permit will be required for any future development on the site, if it is determined by the Planning Director that visual impacts could result from any such project.

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 Mitigated Negative Declaration was filed with the County Clerk on December 5, 2003. All mitigation measures identified in the Initial Study and Mitigated Negative Declaration required to reduce any impact to the environment to an insignificant level are incorporated as conditions of approval for this project and are agreed to by the applicant. The mitigations included as conditions of permit approval are hereby adopted as a mitigation monitoring and reporting program. 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
2. General Plan / Toro Area Plan
3. Biological Survey of Thomas Russell Property, Ed Mercurio, December 3, 2003
4. Geotechnical Investigation, D&M Consulting Engineers, Inc., March 3, 2003
5. Project-Specific Hydrogeologic Report, Anderson Subdivision, MACTEC, May 22, 2003 (Used for general reference on the sub-area only)
6. Preliminary Archaeological Reconnaissance of a Portion of Assessors Parcel 416-452-020, Archaeological Consulting, December 6, 2002
7. 2000 Air Quality Management Plan
8. General Plan Update Environmental Impact Report, March 27, 2002
9. Personal Communication with Janet Brennan, Monterey Bay Unified Air Pollution Control District, August 3, 2003.
10. October 7, 2003 letter from Soil Surveys to Tim Baldwin, Applicant Representative.

EVIDENCE: Should Parcel B be sold, and the winery come under new ownership, a small number of new vehicle trips may result, as the new owners would travel from off-site to the winery, whereas the current winery owners live on the property, and do not need to drive to the winery. The number of vehicles is anticipated to be negligible; however, as it is not like future winery owners would travel to the winery on a daily basis.

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.

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: The continued operation of the existing cottage industry winery prior to establishment of the main use is compatible with the area.

EVIDENCE: No changes to the operation of the winery are proposed as a result of the subdivision. All conditions of approval for Use Permit PLN020602 granted under Resolution 202602 remain in effect, per condition 3, ensuring the cottage industry continues to comply with all the regulations for Cottage Industries as defined in Title 21.

4. 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, Agricultural Commissioner, Water Resources Agency and Salinas Rural Fire District. 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: Materials in files PLN020602 and PLN020329

EVIDENCE: Preceding findings and supporting evidence

5. FINDING: For purposes of the Fish and Game Code, the project will not have a potential for adverse impact on fish and wildlife resources upon which the wildlife depends.

EVIDENCE: Initial Study and Negative Declaration contained in the project file.

6. FINDING: That in approving the parcel map, the decision-making body has balanced the housing needs of the County against the public service needs of its residents and available fiscal and environmental resources.

EVIDENCE: Subdivisions resulting in the potential creation of two or fewer new units are not subject to the in-lieu affordable housing fee. The subject subdivision will result in the potential for the creation of one new unit, and is therefore not subject to the fee.

7. FINDING: That none of the findings found in Section 19.04.025.I of the Monterey County Code Title 19 (Subdivision Ordinance) can be made.

EVIDENCE: Section 19.03.025.I requires that the subdivision be denied if any one of the findings are made. Planning staff has analyzed the project against the findings for denial outlined in this section. The map and its design and improvements are consistent with the County General Plan and Toro Area Plan. No specific plan has been prepared for this area. The site has been determined to be physically suitable for the type and density of development (see Evidence in Findings 1 and 2). The design and improvements are not likely to cause substantial environmental damage, substantially and avoidably injure fish or wildlife or their habitat, or cause serious public health problems as demonstrated in the Negative Declaration adopted for this project. The design and improvements will not conflict with easements for access through or use of property within the proposed subdivision. Planning staff reviewed the Title Report and applicable recorded documents to identify all easements and ensure that the project does not conflict with existing easements.

EVIDENCE: The property provides for adequate building sites as evidenced by the application materials submitted for the project, and by the October 7, 2003 letter from Soil Surveys to Tim Baldwin, Applicant Representative, indicating soils in the sloped areas of the property are geotechnically suitable for residential construction and septic systems.

EVIDENCE: The application, plans, and support materials, including the technical reports submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development. The reports are:

Biological Survey of Thomas Russell Property, Ed Mercurio, December 3, 2003

Geotechnical Investigation, D&M Consulting Engineers, Inc., March 3, 2003

Project-Specific Hydrogeologic Report, Anderson Subdivision, MACTEC, May 22, 2003
(Used for general reference on the sub-area only)

Preliminary Archaeological Reconnaissance of a Portion of Assessors Parcel 416-452-020, Archaeological Consulting, December 6, 2002

October 7, 2003 letter from Soil Surveys to Tim Baldwin, Applicant Representative.

8. FINDING: The subject property is in compliance with all the rules and regulations pertaining to zoning; uses, subdivision, and any other applicable provisions of Title 21.36 and any zoning violation abatement costs have been paid.

EVIDENCE: Site visit and inspection by Planner, review of county records, and the tentative parcel map and application materials found in the project file

9. FINDING: That the proposed subdivision will not adversely impact traffic conditions in the area.

EVIDENCE: The proposed subdivision has been reviewed by the Monterey County Department of Public Works and there is no indication from that Department that the subdivision will negatively impact traffic in the area.

EVIDENCE: A traffic mitigation impact fee has been required of the project.

EVIDENCE: Project initial study

- 10. FINDING:** The project is appealable to the Board of Supervisors.
EVIDENCE: Section 19.16.020.B. of the Monterey County Subdivision Ordinance (Title 19).
- 11. FINDING:** The source capacity and water quality for all lots proposed to be created meets the requirements of all applicable health and safety regulations.
EVIDENCE: The project as described in the application and accompanying materials was reviewed by the Environmental Health Division and the Water Resources Agency. The respective departments determined can be conditioned to meet the requirements of all applicable health and safety regulations.
EVIDENCE: Project-Specific Hydrogeologic Report, Anderson Subdivision, MACTEC, May 22, 2003 (Used for general reference on the sub-area only)
EVIDENCE: The application, plans, and support materials, submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed subdivision.

DECISION

THEREFORE, it is the decision of the Minor Subdivision Committee, that the Mitigated Negative Declaration and Mitigated Monitoring Reporting Plan be adopted and that said application for a Minor Subdivision be granted as shown on the attached sketch, subject to the following conditions:

1. The subject Minor Subdivision and Use Permit (File PLN020329), as described in condition #1 and as conditioned, conforms with the plans, policies, requirements and standards of the Monterey County Subdivision Ordinance (Title 19), the General Plan, Toro Area Plan, and the Monterey County Zoning Ordinance (Title 21). The property is located at 503 and 505 Corral de Tierra Road (Assessors Parcel No. 416-452-020), Corral de Tierra area. The project is in accordance with County ordinances and land use regulations subject to the following terms and conditions. Neither the uses 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. Existing Use Permit PLN020602 shall remain in effect for Parcel A and B shown on Tentative Parcel Map dated March 18, 2003 in project file PLN020239, except when Parcel A is sold separately from Parcel B, the winery permit shall become applicable exclusively to Parcel B. This permit requirement shall not be construed as to allow for a separate winery operation on each parcel, but only for a single winery to be operated on both Parcels A and B, when said parcels are under common ownership. All conditions of approval of PLN020602 remain in effect. A copy of Resolution 020602 shall be recorded on Parcels A and B. A notice shall be recorded on Parcels A and B stating "the cottage industry winery entitlement granted under Resolution 020602 shall apply to Parcels A and B on Tentative Parcel Map dated March 18, 2003 in project file PLN020239, on file with the Monterey County Planning and Building Inspection Department, in accordance with Resolution 020329. This permit notice shall not be construed as to allow for a separate winery operation on each parcel, but only for a single winery to be operated on both Parcels A and B. Upon

separate sale of Parcel A, the winery permit shall become applicable exclusively to Parcel B.” The expiration of Use Permit PLN020602 shall remain three years from the approval date of said permit of October 20, 2003. **(Planning and Building Inspection)**

Prior to recordation of the Final Map:

3. The property owner agrees as a condition and in consideration of the approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney’s fees, which the County may be required by a court to pay as a result of such action. County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, or filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless. **(Planning and Building Inspection)**
4. The applicant shall enter into an agreement with the County to implement a Mitigation Monitoring and/or Reporting Plan in accordance with Section 21.08.6 of the California Public Resources Code and Section 15097 of Title 14, Chapter 3 of the California Code of Regulations. Compliance with the fee schedule adopted by the Board of Supervisors for mitigation monitoring shall be required and payment made to the County of Monterey at the time the property owner submits the signed mitigation monitoring agreement. **(Planning and Building Inspection Department)**
5. A scenic easement shall be conveyed to the County over those portions of the property of 30% or greater slopes, as shown on the Tentative Parcel Map dated March 18, 2003 in project file PLN020239, and as stated in the letter by the owner attached to the letter by Timothy J. Baldwin, dated December 11, 2003 in the project file. **(Planning and Building Inspection Department)**
6. A note shall be included on a separate sheet of the parcel map, or by separate document that shall indicate its relationship to the final map, recorded simultaneously with the final map, as follows: “Reports have been prepared for this property as listed below, and are on file in the Monterey County Planning and Building Inspection Department, Coastal Office. The recommendations contained in said reports shall be followed in all further development of this property.”

Biological Survey of Thomas Russell Property, Ed Mercurio, December 3, 2003

Geotechnical Investigation, D&M Consulting Engineers, Inc., March 3, 2003

Project-Specific Hydrogeologic Report, Anderson Subdivision, MACTEC, May 22, 2003 (Used for general reference on the sub-area only)

Preliminary Archaeological Reconnaissance of a Portion of Assessors Parcel 416-452-020, Archaeological Consulting, December 6, 2002

October 7, 2003 letter from Soil Surveys to Tim Baldwin, Applicant Representative.

The note shall be located in a conspicuous location, subject to the approval of the County Surveyor. **(Planning and Building Inspection)**

7. The applicant shall record a notice that states: "A permit (Resolution 04001) was approved by the Minor Subdivision Committee for Assessor's Parcel Number 416-452-020 on January 8, 2003. The permit was granted subject to 20 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." Alternatively, this note shall be included on a separate sheet of the parcel map, or by separate document that shall indicate its relationship to the parcel map, recorded simultaneously with the parcel map. Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits, recording of the parcel map, or commencement of the use. **(Planning and Building Inspection)**
8. The applicant shall obtain a new or amended water system permit from the Division of Environmental Health prior to filing the final (parcel) map. **(Environmental Health)**
9. Design the water system improvements to meet the standards as found in Chapter 15.04 of the Monterey County Code, Titles 17 and 22 of the California Code of Regulations and as found in the Residential Subdivision Water Supply Standards. Submit engineered plans for the water system improvements, including plans for secondary treatment, and any associated fees to the Director of Environmental Health for review and approval prior to installing the improvements. **(Environmental Health)**
10. Design the water system improvements to meet fire flow standards as required and approved by the local fire protection agency. Submit evidence to the Division of Environmental Health that the proposed water system improvements have been approved by the local fire protection agency prior to installation of water system improvements. **(Environmental Health)**
11. The developer shall install the water system improvements to and within the subdivision and any appurtenances needed prior to filing the final (parcel) map. **(Environmental Health)**
12. Submit an updated map indicating proposed septic envelopes for parcels A and B to the Division of Environmental Health for review and approval prior filing the final/parcel map. Once approved the septic envelopes shall appear as part of the final/parcel map. **(Environmental Health)**
13. Prior to filing the final map, submit a detailed domestic wastewater disposal system design for Parcels A and B following the recommendations in the Geotechnical Investigation Study prepared by D&M Consulting Engineers in March 2003 to the Director of Environmental Health for review and approval meeting the regulations found in Chapter 15.20 of the Monterey County Code, and Prohibitions of the Basin Plan, RWQCB. The septic design shall show 150% sizing of leach field. **(Environmental Health)**
14. The applicant shall record a deed notification with the Monterey County Recorder for parcel A and B prior to filing the Final/Parcel Map indicating that: "An approved septic system design is on file at the Division of Environmental Health, File Number PLN 020329 and any future development or expansions on this property shall be in compliance with the design and Chapter 15.20 of the Monterey County Code unless otherwise approved by the Director of Environmental Health. **(Environmental Health)**
15. File parcel map delineating all existing and required easements or rights-of-way and monument new lines. **(Public Works)**

- 16. If the Department of Public Works completes a traffic study for Corral de Tierra Road prior to recordation of the parcel map, the applicant shall comply with recommendations of the study in accordance with the project's proportional impact. **(Public Works)**
- 17. Provide for all existing and required easements or rights-of-way. **(Public Works)**
- 18. Thirty days prior to expiration date of the tentative map, Step A (9 items) of the County Surveyor's Check Off List for Parcel Map, processing shall be completed.
- 19. If required, dedicate 30' from centerline of Corral De Tierra Road. **(Public Works)**
- 20. Prior to filing the parcel map, the applicant shall pay \$10,629.00 per lot (Lot B) as their pro rata fair share contribution for improvements within the Highway 68 Corridor. This figure is based upon the amount used during the Year 2000 and shall be updated annually in accordance with the Engineering News Record Construction Cost Index. **(MM 15-1) (Public Works)**

PASSED AND ADOPTED this 8th day of January, 2004.

Original Signed By:

ANN TOWNER, SECRETARY

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 CLERK TO THE BOARD OF SUPERVISORS ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

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.