



TRUSTED COUNSEL TO THE WINE INDUSTRY

ATTORNEYS

CHARLES W. MEIBEYER
meibeyerlaw@aol.com

LYNN S. SLETTO
lynn@meibeyerlaw.com

PRACTICE AREAS

Alcoholic Beverage Law
Business Transactions
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Succession Planning

ST. HELENA

Mailing address:

1236 Spring Street
St. Helena, CA 94574
707.963.7703 phone
800.788.0243 toll free
707.963.4897 fax
www.meibeyerlaw.com

HEALDSBURG

141 North Street, Ste. B
Healdsburg, CA 95448
707.431.4240 phone

February 16, 2012

Mr. Derek Rayner, Senior Civil Engineer
City of Calistoga Public Works Department
414 Washington St.
Calistoga, CA 94515

Re: Brian Arden Winery

Dear Mr. Rayner:

I am enclosing an additional "peer review" by Bartelt Engineering, of the revised Hydrology & Drainage Report dated February 1, 2012, and related documents. Bartelt Engineering continues to identify deficiencies in that Report.

As counsel for the neighboring property owner, Mark and Teresa Aubert, I have carefully reviewed the Report, and the comments of both Bartelt Engineering and Green Valley Consulting Engineers. After numerous iterations of submittals by the Brian Arden Winery I would recommend that the focus shift from merely technical issues to the "big picture". Under the California drainage law, owners cannot concentrate water resulting in damage to downstream property. Furthermore, property owners must not increase drainage runoff, divert natural flow, or block any drainage channel. It is our belief that the applicants own materials have established that the project, as currently designed, cannot comply with the California drainage law, nor the general plan policies applicable to the property. As neighbors of the project the Aubert family requests that the City ensure that the project comply with the drainage laws and protect the Aubert property from discharge that is not in full compliance with those obligations.

The Brian Arden property is presently undisturbed land that collects substantial amount of rain fall and surface water before releasing relatively modest amounts through sheet flow to east. Site inspections will review that there is no currently existing "point of discharge" in the southeasterly corner of the Brian Arden property. The applicant's plan dramatically changes current drainage patterns and results, as noted by Bartelt

February 16, 2012

Page 2.

Engineering, "Under the proposed post-construction condition, flows are being broken up, redirected and allowed to release as concentrated point discharges which have higher flow rates than the pre-construction conditions". As such, the proposed plan violates California law and exposes my clients to substantial increased risk of harm due to increased flooding caused by the Brian Arden project. My clients will take any measures necessary to ensure that this issue be resolved to prevent this potential harm to their property, which is a significant environmental effect that must be addressed under CEQA before the project can be approved.

Moreover, the Report has failed to address the impacts of this proposed plan not just on my clients, but on other downstream neighbors. As noted by Bartelt Engineering: "The proposed project will discharge at rates that peak sooner, last longer and will be greater overall than current conditions. This will have an impact on the hydraulics of the regional downstream conveyance structures (ditches, swales, streams, etc.) because the site will maintain a higher flow rate for a longer time which will subsequently increase the regional watershed's peak flow". As further noted, no regional watershed impact analysis has been conducted to determine how downstream conveyance structures will be affected by the increased flow.

We believe these adverse results will occur because this project is too large on too small a parcel. The project is more than 15,000 sf in size, and has a very large amount of impervious surface, generating a substantial amount of additional runoff. This urbanization of the site violates General Plan policies such as LU-29 Maxfield/Adams Beverage Company Properties which requires: "Protection of natural resources, **including retention of onsite drainage**, mature trees and sensitive habitat."

Moreover, the applicant has proposed elevating a currently high profile two story structure by as much as three feet to create a detention basin necessitated by the amount of impervious surface to be constructed. The project was already in violation of the requirements for Entry Corridor properties, as expressed in LU-33: "New buildings should reflect **small-scale, low-rise design characteristics with an understated visual appearance** [emphasis supplied], and should maintain existing small town rural and open space qualities." To the contrary, the applicant has **increased** the height of what were already oppressively tall structures.

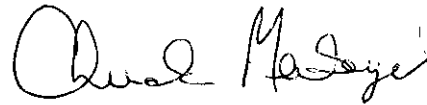
It appears to us the applicant's project design has created an intolerable condition for the project's neighbors. We strongly encourage the applicant to downsize the winery and impervious surface to reduce the amount of run-off. We also

February 16, 2012

Page 3.

believe the relocation of the parking area toward the Solage property will allow the applicant to release the reduced water flows in a manner that will more closely replicate the historic sheet flow drainage pattern. The combined reduction in drainage and elimination of concentrated point discharges will serve to avoid the damage to neighboring properties that is bound to occur under the current plan.

Very truly yours,

A handwritten signature in black ink, appearing to read "Charles W. Meibeyer". The signature is written in a cursive style with a large initial "C" and "M".

Charles W. Meibeyer

cc: Mark and Teresa Aubert
Calistoga Planning Department
Law Offices of James Rose