

**ELDORADO COUNTY DEVELOPMENT SERVICES  
STAFF REPORT**



**Agenda of:** July 13, 2006  
**Item No.:** 9.a.  
**Staff:** Lillian Macleod

**REZONE / SITE PLAN REVIEW**

**FILE NUMBER:** Z06-0004, SPR06-0035

**APPLICANT/AGENT:** Stan and Karen Van Spanje

**REQUEST:**

1. Rezone of project parcel from Estate-Residential Ten-acre (RE-10) to Select Agricultural (SA-10).
2. Site plan review to allow the conversion of an existing agricultural building to a winery facility.

**LOCATION:** On the north side of Fairplay Road, approximately 1.9 miles east of the intersection with Mt. Aukum Road, in the Fairplay area. (Exhibit A)

**APN:** 094-130-05

**ACREAGE:** 10.14 acres

**GENERAL PLAN:** Agricultural Lands – Agricultural District (AL-A) (Exhibit B)

**ZONING:** Estate Residential Ten acre (RE-10) (Exhibit C)

**ENVIRONMENTAL DOCUMENT:** Negative Declaration prepared.

**SUMMARY RECOMMENDATION:** Recommend conditional approval

**BACKGROUND:** The property currently contains a single family residence and an agricultural barn measuring 30 x 36 feet in size. The residence was constructed in 1941, prior to building permits being required. A well has been in service from that time, also non-permitted. Electrical upgrades to the well were approved under building permit 157392. No building permit record can be found for the barn.

The applicants' original request was for a special use permit to allow an expanded home occupation consisting of an on-site, estate winery. However, under General Plan Table 2-4, the existing Estate Residential Ten-acre Zone District is not consistent with the AL-A land use designation. In order to make a finding of consistency with the General Plan, the applicant has been required to request a rezone to a compatible zone district first, hence the subject application.

**STAFF ANALYSIS**

**Project Description:** Request to rezone the project parcel, Assessor's Parcel Number 094-130-05, from Estate Residential Ten-acre (RE-10) to Select Agricultural (SA-10).

A site plan review of the conversion of an existing 1,050 square foot agricultural barn into a winery facility. The applicants are currently under a 10-year contract to supply grapes to a neighboring winery. The applicants' plans call for a maximum production of 500 cases of wine per year from surplus grapes grown on site that are over and above their contractual obligation. They may also utilize grapes from 450 vines cultivated on a separate parcel under their ownership in the Fairplay area. The winery will be a family-run operation, and no employees will be hired. No on-site sales or tasting room are being proposed. Sales will be conducted by phone or internet and delivered off-site.

**Site Description:** The topography is relatively flat. The project parcel has 6.61 acres under wine grape cultivation. The vineyard is fenced, and irrigated from an existing well. The existing house is situated adjacent to Fairplay Road. A seasonal drainage channel separates the residence from the existing barn to its north.

**Adjacent Land Uses:**

	Zoning	General Plan	Land Use/Improvements
<b>Site</b>	RE-10	AL-A	Single-family residence, Vineyard
<b>North</b>	PA-20	AL-A	Single-family residence, Vineyard
<b>South</b>	AE	AL-A	Fairplay Farms Vineyard
<b>East</b>	SA-10	AL-A	Single-family residence
<b>West</b>	RE-10	AL-A	Single-family residence, Vineyard

**GENERAL PLAN:** The General Plan designates the subject site as AL-A. Under **Policy 8.1.1.8**, this designation applies to land of sufficient size to sustain agricultural use and, as applicable to the proposed project, should either contain the soil characteristics of choice agricultural land, or be under cultivation for commercial crop production. Additionally, it must either be located in the County's Rural Region or be determined by the Agricultural Commission as well suited for agricultural production.

Discussion: The project parcel is located within the Rural Region of El Dorado County and currently has 6.6 acres under grape vine cultivation. Based on the *Soil Survey of El Dorado Area*, the project parcel consists of the Holland series soil classification, specifically Holland coarse sandy loam (HgD), which is considered a County “choice” soil. In their meeting of March 8, 2006, the Agricultural Commission found that the parcel met both the criteria of being “choice” agricultural land with moderate slopes, as well as the class distinctions demonstrating suitability for vineyard use in compliance with Policy 8.1.1.8.

**Policy 2.2.2.2** addresses requirements for receiving the Agricultural District overlay (-A) designation. Land receiving this designation must contain soil characteristics that meet federally designated “prime”, State designated “unique or important”, or County designated “choice” requirements. Further, land identified as such shall be a minimum of 20 acres in size for residential development unless over 70 percent of the parcel is considered unsuitable for agricultural production in which case it can be a minimum of 10 acres.

**Policy 8.2.4.4** allows winery uses on agricultural parcels if they are subordinate to the primary agricultural use, providing the parcel is 10 acres or more in size and has a minimum of 5 acres of permanent crop in production.

Discussion: While Policy 2.2.2.2 regarding the (-A) overlay specifies a 20 acre minimum *residential* parcel size, it also requires this designation in areas containing “viable agricultural-based communities” as a means of conserving and protecting important “agricultural crop lands and associated activities.”

The project parcel is located in the heart of the Fairplay grape wine producing community. The proposed conversion of an agricultural barn into a winery in order to produce wine from the applicants’ vineyards for private use and off-site sale is compatible with the surrounding vineyards and winery related uses in the Fairplay area. The residential development of the parcel occurred well before the adoption of Policy 2.2.2.2, and is subordinate to its agricultural potential and commercial productivity, so staff finds that the 20 acre minimum is not applicable in this case.

Further, at their hearing on March 8, 2006, the Agricultural Commission determined that the parcel met the requirements under Policy 8.2.4.4 and recommended approval of the proposed rezone and accessory winery facility.

**Policy 2.2.5.3** addresses the evaluation of any rezoning that would either increase residential density or support a more intense use of the land. Since this is a rezone from RE-10 to SA-10, there are no increased impacts associated with additional population density. The minimum parcel size under both zone districts remains the same. The rezone to SA-10 would allow, with site plan review, certain agriculturally-related commercial activities. To evaluate the rezone based on the specific criteria enumerated under this policy, staff will compare the proposed project and its intensified uses against them as follows:

1. Availability of an adequate public water source or an approved Capital Improvement Project to increase service for existing land use demands;
2. Availability and capacity of public treated water system;

3. Availability and capacity of public waste water treatment system;
- (1–3) Project parcel is not connected to any public water or wastewater system.**
4. Distance to and capacity of the serving elementary and high school;
- (4) The rezone will not allow any further residential use than has already been allowed.**
5. Response time from nearest fire station handling structure fires;
- (5) Development of the project would result in a minor increase in demand for fire protection services, however, no factual information was provided by the fire district stating that the minimum level of service would fall below the minimum response time of 15 to 45 minutes, as designated in Table 5-1.**
6. Distance to nearest Community Region or Rural Center;
- (6) Rezone will have no impact.**
7. Erosion hazard;
- (7) General Plan Policy 7.3.2.2 states that projects requiring a grading permit shall have an erosion control program approved, where necessary. The applicants are proposing to convert an existing barn into a winery and only minimal grading, if any, may be required.**
8. Septic and leach field capability;
9. Groundwater capability to support wells;
- (8–9) Upgrades to the existing septic system and/or new wells on the property will require review and approval from Environmental Health through their permitting process.**
10. Critical flora and fauna habitat areas;
11. Important timber production areas;
12. Important agricultural areas;
13. Important mineral resource areas;
- (10–11 &13) Project parcel is not in any designated area for these criteria.**
- (12) The project parcel is currently under cultivation as a vineyard. The rezone would allow accessory uses under the Winery Ordinance subject to Site Plan Review. Both the vineyard and accessory uses are compatible with existing development in the Fairplay wine-producing area.**
14. Capacity of the transportation system serving the area;

- (14) **Project parcel is accessed directly off of a public and County-maintained road. Based on the *Request for Initial DOT Project Review*, the Department of Transportation has determined that the proposed rezone and subsequent uses allowed by right under the Winery Ordinance will not trigger LOS thresholds of significance established under General Plan Policy TC-Xe.**
15. Existing land use pattern;
- (15) **The rezone will maintain conformity to the existing land use pattern of viticulture and its accessory uses.**
16. Proximity to perennial watercourse;
- (16) **An intermittent drainage channel runs between the existing residence and barn. No physical expansion of the barn is being proposed with the subject winery conversion.**
17. Important historical/archeological sites; and
18. Seismic hazards and present of active faults.
19. Consistency with existing Conditions, Covenants, and Restrictions.
- (17–19)  
**Not applicable, therefore the rezone will have no impact.**

**Conclusion:** As discussed above, staff finds that the project, as proposed/conditioned, conforms to the General Plan in that, by determination of the Agricultural Commission, the project parcel has the size and soil characteristics to sustain agricultural production, is currently producing a vineyard crop of more than five acres for commercial use, and the proposed, intensified winery use is compatible with the surrounding wine producing area and will not have a significant impact on the land.

**ZONING:** Pursuant to the Winery Ordinance, §17.14.190, the subsequent rezone to SA-10 would allow a winery on parcels 10 acres or more in size with a minimum of five acres of planted wine grapes subject to site plan review. The subject application includes a site plan review, SPR06-0035, in compliance with this requirement.

The barn is located 57 feet from the nearest property line in compliance with §17.36.260 (C). Under §17.06.150, noncompatible uses adjacent to agriculturally zoned land must be set back at least 100 feet from the property line. Noncompatible uses, as defined under the ordinance, means those uses apt to conflict with agriculture and include, but are not limited to residences, schools, nursing homes, and churches. The adjacent parcel nearest to the barn is also zoned Select Agriculture (SA-10) and is under grape cultivation, as well.

**Discussion:** Based on the definition under §17.06.050 for an “agricultural enterprise structure,” a winery is considered a compatible use to viticulture, and the existing setback of the proposed winery facility is compliant with the ordinance. The site plan review application is compliant with the Winery Ordinance as to the proposed winery conversion, only. Any subsequent proposals for uses

allowed under §17.14.190(C) (2) (a), such as wine tasting or special events, will require subsequent site plan review applications subject to the review and approval of the Deputy Director of Planning.

**Conclusion:** In order to approve the use, the approving authority must find that the use is consistent with the General Plan and would not be detrimental to the public health, safety and welfare or injurious to the neighborhood. These findings can be made as follows: the project is consistent with the General Plan in that the parcel can sustain agriculture and is being used commercially in this regard, is currently meeting the five acre minimum crop production for a bona fide agricultural operation, and is compatible with the surrounding wine producing area. The project is consistent with the Zoning Ordinance in that the subject applications are the correct ones for the request to develop a winery in an existing building, and the project, as proposed and conditioned, meets the requirements of the winery ordinance. Further, the proposed winery facility is compatible with the adjacent agriculturally zoned land and meets setback standards under the SA-10 Zone District.

**Agency and Public Comments:** The following agencies provided comments on this application. Copies of their written comments are available at the Planning Services office. From these comments, the following issues were raised:

**California Regional Water Quality Control Board (RWQCB):** Concerns regarding construction and post-construction activities on storm water management of the on-site drainage channel were raised. The proposed project involves internal tenant improvements to an existing barn and, as such, should avoid any impacts from surface runoff into the channel. Compliance with the grading ordinance and RWQCB permit requirements will reduce any future, potential impacts from the rezone to a less than significant level.

**Agricultural Commission:** From their memorandum dated March 21, 2006, the Commission found that the project parcel met the criteria of slope and soil quality for establishing an SA-10 Zone District and recommended approval of the subject rezone and proposed winery.

**Department of Transportation:** No additional traffic will be generated from the proposed project pursuant to the *Request for Initial DOT Project Review*. Conditions have been applied regarding encroachment and road dedication issues.

**Environmental Health:** As the facility is on a septic system, a Report of Waste Discharge must be submitted to the Central Valley RWQCB prior to winery operation. If crushing less than 80 tons of grapes per year, the applicant may receive a formal waiver notification from the Board.

**Building Services:** A building permit will be required for the barn conversion to a winery facility.

At the time of the preparation of this report, staff had not received any comments from the public. New issues may arise as a result of the public notice of the hearing which will be discussed at that time.

## **ENVIRONMENTAL REVIEW**

Staff has prepared an Initial Study (Environmental Checklist with Discussion attached) to determine if the project has a significant effect on the environment. Based on the Initial Study staff has determined that there is no substantial evidence that the proposed project will have a significant effect on the environment, and a Negative Declaration has been prepared.

This project is found to be de minimis (having no effect on fish and game resources). Pursuant to Resolution No. 240-93, a \$35.<sup>00</sup> processing fee is required by the County Recorder to file the Notice of Determination and Certificate of Fee Exemption with the State in accordance with State Legislation (California Fish and Game Code Section 711.4).

## **RECOMMENDATION**

Staff recommends that the Planning Commission forward the following recommendations to the Board of Supervisors:

1. Adopt the Negative Declaration for Z06-0004 based on the Initial Study prepared by staff;
2. Approve the request to rezone Assessor's Parcel Number 094-130-05 from Estate Residential Ten-acre (RE-10) to Select Agricultural (SA-10) based on the findings in Attachment 2; and
3. Approve the site plan review, SPR06-35, subject to the conditions in Attachment 1.

## **SUPPORT INFORMATION**

### **Attachments to Staff Report:**

Attachment 1 .....	Conditions of Approval
Attachment 2 .....	Findings
Exhibit A .....	Vicinity Map
Exhibit B .....	General Plan Land Use Map
Exhibit C .....	Zoning Map
Exhibit D .....	Site Plan
Exhibit E .....	Assessor's Parcel Map

# **ATTACHMENT 1**

## **CONDITIONS OF APPROVAL**

### **FILE NUMBER SPR06-0035**

This site plan review approval is based upon and limited to compliance with the project description, dated July 13, 2006, and Conditions of Approval set forth below. Any deviations from the project description, exhibits, or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of site plan review approval.

#### **The project, as approved, consists of the following:**

1. A rezone of the project parcel, Assessor's Parcel Number 094-130-05, from Estate Residential Ten-acre (RE-10) to Select Agricultural (SA-10).

A site plan review of the conversion of an existing 1,050 square foot agricultural barn into a winery facility. The applicants are currently under a 10-year contract to supply grapes to a neighboring winery. The applicants' plans call for a maximum production of 500 cases of wine per year from surplus grapes grown on site that are over and above their contractual obligation. They may also utilize grapes from a 450-vine vineyard on a separate parcel under their ownership in the Fairplay area. The winery will be a family-run operation, and no employees shall be hired. No on-site sales or tasting room shall be allowed without further site plan review. Sales will be conducted by phone or internet and delivered off-site.

2. All site improvements shall conform to the site plan attached as Exhibit D.
3. Prior to issuance of a grading permit or final occupancy of the winery, whichever comes first, the applicants shall irrevocably offer to dedicate, in fee title, a 30 foot half-width right-of-way of the project parcel's frontage along Fairplay Road.
4. Prior to issuance of a grading permit or final occupancy of the winery, whichever comes first, the applicants shall be subject to an encroachment permit, Standard Plan 103C, requiring a minimum driveway width of 24 feet onto Fairplay Road.
5. Prior to operation, a building permit shall be required to convert the existing agricultural barn into a winery facility.
6. Prior to operation of the winery facility, the applicants shall file a report of waste discharge (RWD) with the Central Valley Regional Water Quality Control Board. If the applicants receive a formal waiver notification, winery wastewater shall be applied to cropland at agronomic rates or stored in tanks and removed from the project site for disposal at a regulated facility.

7. If the future winery facility will involve the storage of reportable quantities of hazardous materials, then prior to building permit issuance the applicant shall submit a hazardous materials business plan to the Solid Waste and Hazardous Materials Division of Environmental Management, to include payment of applicable fees.
8. The applicants will be subject to further site plan review for those accessory uses listed under §17.14.190(C) (2) (a) of the Zoning Ordinance.

## **ATTACHMENT 2 FINDINGS**

### **FILE NUMBER Z 06-0004, SPR 06-0035**

1. The proposed project will not have a significant effect on the environment, based on the analysis contained in the Initial Study, and a Negative Declaration has been filed. Further, the project will not affect wetlands, water courses, riparian lands, unique plant or animal life and habitats, or other terrestrial matters under the jurisdiction of the State Department of Fish and Game, and the proposed use is not considered detrimental to the public health, safety, and welfare, or injurious to the neighborhood. Therefore, the project has a de minimis impact on the environment and a Certificate of Fee Exemption (DFG 753.5-5/91 is applicable.
2. The proposed use is consistent with the policies in the El Dorado County General Plan in that the project parcel has the size and soil characteristics, as determined by the Agricultural Commission, to sustain agricultural production, is currently producing a commercial vineyard crop of more than five acres, and the winery facility will be compatible with the surrounding wine producing area.
3. The use is found to comply with the requirements of Chapters 17.14.190, Winery Ordinance and 17.36, Select Agricultural Districts, in that the subject applications are the correct ones for the request to convert an existing barn into a winery facility, and the project, as proposed and conditioned, is compatible with the adjacent agriculturally zoned land, and meets setback standards under the Zoning Ordinance.