

**COUNTY OF EL DORADO DEVELOPMENT SERVICES
PLANNING COMMISSION
STAFF REPORT**



Agenda of: November 12, 2009
Item No.: 7.d
Staff: Jason R. Hade

SPECIAL USE PERMIT

FILE NUMBERS: S09-0016/Miraflores Winery Tasting Room and Storage

APPLICANT: Victor Alvarez

AGENT: James Whitmarsh

REQUEST: Special Use Permit (SUP) to authorize the construction of a 3,593 square foot building for storing barrels, assembly area for wine tasting, merchandise sales, and a commercial kitchen for special on-site events.

LOCATION: On the east side of Four Springs Trail, at the intersection with Sly Park Road in the Pleasant Valley area, Supervisorial District IV. (Exhibit A)

APN: 079-010-79 (Exhibit B)

PARCEL SIZE: 134.16 acres

GENERAL PLAN: Natural Resources (NR) (Exhibit C)

ZONING: Exclusive Agricultural (AE) (Exhibit D)

ENVIRONMENTAL DOCUMENT: Previously adopted Mitigated Negative Declaration in accordance with CEQA Section 15162

RECOMMENDATION: Staff recommends that the Planning Commission take the following actions:

1. Certify that the previously adopted Mitigated Negative Declaration is adequate for this project in accordance with CEQA Section 15162; and

2. Approve S09-0016 subject to the conditions of approval in Attachment 1, based on the findings in Attachment 2.

BACKGROUND

On May 16, 2006, the Board of Supervisors (BOS) approved a rezone for the subject site from RE-10, RA-20, and RA-40 to AE. The BOS also approved Williamson Act Contract WAC06-0001 establishing Agricultural Preserve Number 300. Miraflores Winery has been operating a public tasting room within its existing winery building as well as hosting many special events, such as Passport Weekend and Rocks and Rhones, since February 2007. These activities were permitted by right under the previous Winery Ordinance.

At the February 22, 2007 Planning Commission meeting, the Commission asked staff to provide a status report on compliance with the mitigation measures for the project. Staff reported back to the Commission on March 16, 2007 and concluded that project was in compliance with all applicable mitigation measures. Several of the mitigation measures are still applicable to the current request and were carried forward within Attachment 1.

Pursuant to Section 17.14.200.E.5.b. of the Winery Ordinance, a special use permit application is required for the proposed use because the site is accessed by a non-County maintained road and is not located within an Agricultural District. A special use permit is also required under Section 17.14.200.D.2 as the site is not located within an Agricultural District and has property lines adjoining a non-compatible land use designation (Medium Density Residential) to the north.

The subject SUP application was submitted on June 23, 2009 and deemed complete for processing July 22, 2009.

The applicant has submitted Building Permit application number 193462 for the construction of the proposed new building as an agricultural storage facility which is permitted by right under the Winery Ordinance. The requested SUP would authorize the proposed tasting room use, if approved.

STAFF ANALYSIS

Staff has reviewed the project for compliance with the County's regulations and requirements. An analysis of the proposal and issues for Planning Commission consideration are provided in the following sections.

Project Description: Special Use Permit (SUP) to authorize the construction of a 3,593 square foot building for storing barrels, assembly area for wine tasting, merchandise sales, and a commercial kitchen for special on-site events. Proposed uses would consist of the following: (1) public wine tasting within the assembly area for up to 52 people from 10 AM to 5 PM seven days a week. Outdoor seating for 50 people would be available for special occasions; (2) wholesale and retail sales of wine; (3) public tours limited to 10 persons or less by appointment only; and (4) special events with up to 250 persons at one time up to 48 times a year. Types of special events would include outdoor music from 10 AM to 9 PM held to 50 decibels at the property line, winemaker's dinners for up to 50 people, wine festivals,

weddings, and renting of the tasting room for private parties. The SUP would also memorialize all other winery structures and uses that are now legally operating.

Site Description: The 134.16 acre project site lies at an elevation of approximately 2,600 feet above sea level. The property has varied terrain and moderate to steep slopes. Vegetation consists of mixed conifer woodland and open grassland areas. The Miraflores winery consists of approximately 40 acres of grapes. Site improvements consist of a 6,080 square foot winery facility, parking area, and deer fencing. Existing project access is via Four Springs Trail connecting to Sly Park Road.

Adjacent Land Uses

	Zoning	General Plan	Land Use/Improvements
Site	AE	NR	Agricultural/Miraflores Winery
North	RE-10	MDR	Residential/Single-family residences
South	RA-20/AE	NR	BLM land
East	RE-10/RA-20/AE	NR	Residential/Single-family residences
West	RE-10	RR	Residential/ Single-family residences

Land Use Compatibility: As discussed above, the subject site is surrounded by residential and public land uses. Potential land compatibility issues such as access, lighting, parking, and noise are discussed in greater detail below. Staff believes the proposed project is compatible within the context of the surrounding land uses pursuant to General Plan Policy 2.2.5.21 based on compliance with the recommended conditions of approval in Attachment 1.

Access: Site access would continue to be provided via Four Springs Trail, a non-County maintained road, with a driveway entrance to be provided consistent with that shown on the submitted site plan (Exhibit F). At the Agricultural Commission meeting held on August 12, 2009, a neighbor expressed concerns regarding the width of the road easement providing access to the project site. While the applicant has agreed to maintain the road which currently meets fire safe standards as required under the Winery Ordinance, staff notes that there is no provision within the ordinance which requires a road easement. The Winery Ordinance requires that roads be maintained and constructed to fire safe standards, but does not address road easement widths.

Environmental Management Department: Air Quality Management District and Hazardous Materials comments are addressed as standard conditions of approval identified within Attachment 1. The applicant has filed a declaration of small water system status with the Environmental Health Division, as required. No other issues or concerns were reported by the Environmental Health Division.

Fire Protection: The El Dorado County Fire Protection District reviewed the proposed project and would require the installation of a fire hydrant as shown on the site plan, fire alarm system, fire

sprinkler system, and access road width and turnaround as shown on the site plan. Fire issues are addressed within the project's conditions of approval.

Landscaping: Existing Natural vegetation would serve as landscaping to shield the proposed parking area on the east side of the site.

Lighting: Staff has reviewed the submitted preliminary lighting plan, Exhibit H, and found it to be in compliance with Section 17.14.170 of the County Code and to be fully shielded pursuant to the Illumination Engineering Society of North America (IESNA) full cut-off designation.

Parking: Pursuant to Section 17.18.060.44 of the Zoning Ordinance, parking requirements for the proposed uses are as follows:

Wine tasting/library/toilets/food preparation: 1 space/250 square feet

Warehousing: 1 space plus 1 space/2,000 square feet

Proposed uses and parking calculations are as follows:

Wine tasting/library/toilets/food preparation: 1,479 square feet = 6 spaces

Warehousing: 2,114 square feet = 3 spaces

Total = 9 spaces

Based on the proposed use square footages, a total of nine parking spaces would be required. As shown on Exhibit F, a total of nine parking spaces are available at the subject site including one handicapped accessible space. In the event overflow parking is needed for special events, limited to 250 persons at one time, sufficient space is available in the existing parking area near the existing winery building as well as other areas near the existing access driveway.

Noise: Several types of special events would include outdoor music from 10 AM to 9 PM held to 50 decibels at the property line. The General Plan noise standards contained in Policy 6.5.1.7 and Table 6-2 would need to be adhered to featuring outdoor amplified music or amplified speech. No outdoor music is permitted after 10 pm.

GENERAL PLAN

This project is consistent with all applicable policies of the adopted 2004 El Dorado County General Plan. Findings for consistency with the General Plan are provided in Attachment 2. The policies and issues that affect this project are discussed below:

Policy 2.2.1.2 states the purpose of the Natural Resource (NR) designation is to identify areas that contain economically viable natural resources and to protect the economic viability of those resources and those engaged in harvesting/processing of those resources including water resources from development from interests that are in opposition to the managed conservation and economic, beneficial use of those resources. Compatible uses on private land may include agriculture,

rangeland, forestry, wildlife management, recreation, water resources development, and support single-family dwellings.

Discussion: The proposed agriculture use is considered a compatible use as noted above and would be consistent with Policy 2.2.1.2.

Policy 2.2.5.21 *directs that new development be compatible with the surrounding land uses.*

Discussion: As conditioned, the SUP application would be consistent with the surrounding residential land uses and federally owned public lands.

Policy 5.2.1.2 *directs that an adequate quantity and quality of water for all uses, including fire protection, shall be provided for discretionary development.*

Discussion: As mentioned above, the El Dorado County Fire Protection District supports the project with implementation of a new fire hydrant shown on the site plan, as conditioned in Attachment 1.

Policy 6.2.3.2 *directs that the applicant demonstrate that adequate access exists, or can be provided to ensure that emergency vehicles can access the site and private vehicles can evacuate the area.*

Discussion: As conditioned and discussed above, the El Dorado County Fire Protection District supports the SUP application. Existing site access is consistent with Policy 6.2.3.2.

Policy 8.1.4.1 *states that the County Agricultural Commission shall review all discretionary development applications and the location of proposed public facilities involving land zoned for or designated agriculture, or lands adjacent to such lands, and shall make recommendations to the reviewing authority. Before granting approval, a determination shall be made by the approving authority that the proposed use:*

- A. Will not intensify existing conflicts or add new conflicts between adjacent residential areas and agricultural activities; and*
- B. Will not create an island effect wherein agricultural lands located between the project site and other non-agricultural lands will be negatively affected; and*
- C. Will not significantly reduce or destroy the buffering effect of existing large parcel sizes adjacent to agricultural lands.*

Discussion: As outlined in Exhibit I, the Agricultural Commission reviewed the request and determined that it is consistent with Policy 8.1.4.1 as the above findings can be made. As such, the Agricultural Commission recommended approval of the proposal at its meeting of August 12, 2009.

Policy 10.1.6.1 *directs that the County shall encourage expansion of the types of local industries that promote tourism including but not limited to Christmas tree farms, wineries, outdoor sports*

facilities, Apple Hill and other agricultural-related activities, the County Fairground, bed and breakfast inns, and ranch marketing activities.

Discussion: Approval of the requested SUP would be consistent with Policy 10.1.6.1 because the new tasting room and storage facility would promote continued tourism within the Pleasant Valley area.

ZONING

As conditioned in Attachment 1, staff believes the proposed project is consistent with the lighting, parking, and applicable development standards within Sections 17.14.200.E and 17.36.090 of the Zoning Ordinance. The proposed use is permitted by special use permit pursuant to Section 17.14.200.E.5.b. of the Winery Ordinance. In order to approve the use, the Planning Commission must find that the use is consistent with the General Plan and would not be detrimental to the public health, safety and welfare nor injurious to the neighborhood. Based on staff analysis and comments received from affected public agencies, staff recommends the Planning Commission find that the project would not be detrimental to the public health, safety and welfare and would not be injurious to the neighborhood. Findings for conditional approval are provided in Attachment 2.

ENVIRONMENTAL REVIEW

This special use permit application does not require a subsequent Negative Declaration in accordance with Section 15162 of the California Environmental Quality Act (CEQA). An initial study and Mitigated Negative Declaration was previously adopted for the zone change and Williamson Act Contract applications which analyzed potential impacts related to the development of a winery and tasting room. No new or additional impacts have been identified beyond the impacts evaluated in the previous Mitigated Negative Declaration. As such, no further environmental analysis is necessary.

Note: This project is located within or adjacent to an area which has wildlife resources (riparian lands, wetlands, watercourse, native plant life, rare plants, threatened and endangered plants or animals, etc.), and was referred to the California Department of Fish and Game. In accordance with State Legislation (California Fish and Game Code Section 711.4), the project is subject to a fee of \$1,993.00 after approval, but prior to the County filing the Notice of Determination on the project. This fee plus a \$50.⁰⁰ recording fee, is to be submitted to Planning Services and must be made payable to El Dorado County. The \$1,993.00 is forwarded to the State Department of Fish and Game and is used to help defray the cost of managing and protecting the States fish and wildlife resources.

However, if the applicant believes the project would have no impact on biological resources they may request a “No Effect Determination Form” from the California Department of Fish and Game to waive payment of said fee.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1	Conditions of Approval
Attachment 2	Findings
Exhibit A	Location Map
Exhibit B	Assessor's Parcel Map Page
Exhibit C	General Plan Land Use Map
Exhibit D	Zoning Map
Exhibit E	Site Overview
Exhibit F	Site Plan
Exhibit G	Preliminary Elevations
Exhibit H	Lighting Plan
Exhibit I	Agricultural Commission Memo, August 20, 2009
Exhibit J	Applicant's Project Description, June 17, 2009
Exhibit K	Previously adopted Mitigated Negative Declaration

ATTACHMENT 1
CONDITIONS OF APPROVAL
Miraflores Winery Tasting Room and Storage
FILE NUMBER S09-0016

El Dorado County Planning Services

I. PROJECT DESCRIPTION

1. This Special Use Permit is based upon and limited to compliance with the project description, hearing exhibits marked Exhibit E through H, 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 permit approval.

The project description is as follows:

Special Use Permit authorizes the construction of a 3,593 square foot building for storing barrels, assembly area for wine tasting, merchandise sales, and a commercial kitchen for special on-site events. Uses consist of the following: (1) public wine tasting within the assembly area for up to 52 people from 10 AM to 5 PM seven days a week. Outdoor seating for 50 people is available for special occasions; (2) wholesale and retail sales of wine; (3) public tours limited to 10 persons or less by appointment only; and (4) special events with up to 250 persons at one time up to 48 times a year. Types of special events include outdoor music from 10 AM to 9 PM held to 50 decibels at the property line, winemaker's dinners for up to 50 people, wine festivals, weddings, and renting of the tasting room for private parties.

Special Use Permit also authorizes all other winery structures as shown on the approved site plan.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased, or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto. All plans (such as Site Plans and Landscape Plans) must be submitted for review and approval and shall be implemented as approved by the County.

II. PROJECT CONDITIONS OF APPROVAL

2. Prior to holding any special events, the applicant shall improve Four Springs Trail from the encroachment off Sly Park Road to the winery and tasting room access way. Improvements will consist of surfacing the access way from the existing winery to the proposed tasting

room with a minimum of two inches of aggregate base 18 feet width with one foot shoulders on each side.

3. Developer shall defend, indemnify and hold harmless the County 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, in whole or in part, the County's approval of the Special Use Permit. In the event that the County fails promptly to notify the applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.
4. Prior to issuance of any permits, the applicant shall pay all Development Service fees.
5. Prior to building permit issuance, the applicant shall provide a written description, together with appropriate documentation, demonstrating conformance of the project with each condition imposed as part of the project approval. The applicant shall also schedule an inspection by Planning Services permit center staff prior to final occupancy for verification of compliance with applicable conditions of approval.
6. Pursuant to County Code Section 17.22.250, implementation of the project must occur within twenty-four (24) months of approval of this permit, otherwise the permit becomes null and void. It is the responsibility of the applicant to monitor the time limit and make diligent progress toward implementation of the project and compliance with conditions of approval.
7. Prior to final building occupancy under S09-0016, all outdoor lighting shall conform to Section 17.14.170 of the County Code, the approved outdoor lighting plan (Exhibit H), and be fully shielded pursuant to the Illumination Engineering Society of North America (IESNA) full cut-off designation, as determined by Planning Services.
8. The applicant is responsible for providing nine off-street parking spaces at all times while the facility is in operation pursuant to 17.18.060 of the Zoning Ordinance. The required parking shall be provided as shown on the approved site plan, Exhibit E.
9. Prior to building permit issuance, the site plan shall be revised to reflect the location of overflow parking for special events, limited to 250 persons at one time.
10. The applicant shall submit to Planning Services a \$50.00 recording fee and a \$1,993 Department of Fish and Game fee prior to filing of the Notice of Determination by the County. No permits shall be issued until said fees are paid. Alternatively, documentation from the California Department of Fish and Game waiving this fee may be also be submitted to satisfy this condition, if applicable.

11. During construction, all activities shall apply standard Best Management Practices (BMPs) to control dust during construction. These practices shall be incorporated into the project and include:
 - Application of water on disturbed soils and unpaved roadways a minimum of three times per day
 - Using track-out prevention devices at construction site access points
 - Stabilizing construction area exit points
 - Covering haul vehicles
 - Restricting vehicle speeds on unpaved roads to 15 miles per hour
 - Replanting disturbed areas as soon as practical and other measures as deemed appropriate to the site, to control fugitive dust
12. Prior to grading permit issuance, a fugitive dust plan shall be submitted to the Air Quality Management District (AQMD) for review and approval.
13. Burning of vegetative wastes that result from “Land Development Clearing” must be permitted through the District Rule 300 Open Burning. Only vegetative waste materials are permitted to be disposed of using an open outdoor fire.
14. The applicant shall adhere to District Rule 224 Cutback and Emulsified Asphalt Paving Materials.
15. The project construction will involve the application of architectural coating which shall adhere to District Rule 215, Architectural Coating.
16. Prior to construction/installation of any new point source emission units or non-permitted emission units (i.e. gasoline dispensing facility, boilers, internal combustion engines, emergency generators, etc.), authority to construct applications shall be submitted to the District. Submittal of applications shall include facility diagram(s), equipment specifications, and emission factors.

Department of Transportation

17. **Sight Distance:** (Four Springs Trail and Sly Park Intersection) The sight distance from a vehicle parked at the edge of traveled way of Four Springs Trail with the driver’s eye no more than 15 feet from the edge of pavement, shall be a minimum of 550 feet in either direction, consistent with Caltrans AASHTO standards. Sight distance easements, if necessary or placement of signage as approved by the Department of Transportation must be completed by the applicant prior to issuance of the building permit.
18. **Signage:** The applicant shall install all necessary signage such as stop signs, street name signs, and/or "not a county maintained road" sign as required by the Department of Transportation prior to issuance the building permit. The signing and striping shall be

designed and constructed per the latest version of the California Manual Uniform Traffic Control Devices (MUTCD).

El Dorado County Fire Protection District

19. A site inspection/review fee of \$150.00 shall be submitted to the El Dorado County Fire Protection District (EDCFPD) prior to building permit issuance.
20. Prior to final building occupancy, an approved fire alarm system (NFPA 72) shall be installed to the satisfaction of the EDCFPD.
21. Prior to final building occupancy, a fire hydrant shall be installed as shown on Exhibit F.
22. Prior to final building occupancy, the access road and turnaround shall be constructed as shown on Exhibit F with a 12 percent gradient or less.
23. Documentation confirming that the minimum fire flow of 1,500 gallons per minute at 20 psi for two hours can be met shall be submitted for EDCFPD review prior to building permit issuance.
24. Ceiling heights exceeding 14 feet require the installation of a NFPA 13 fire sprinkler system in the building prior to final building occupancy.
25. Prior to final building occupancy, all project gates shall include a Knox security system with 3M Opticom.

El Dorado County Environmental Management Department

26. If this farm/facility stores or will store reportable quantities of hazardous materials (55 gallons) or generate hazardous waste, prior to commencing operations the owner/operator must:
 - Prepare, submit, pay appropriate fees for and implement a hazardous materials business plan to the EDC Department of Agriculture. The EDC Department of Agriculture will in turn forward the HMBP to Environmental Management for review
 - Obtain a hazardous waste generator identification number from the California Department of Toxic Substances Control.
 - Train all employees to properly handle hazardous materials and wastes.
 - Implement proper hazardous materials and hazardous waste storage methods in accordance with the Uniform Fire Code and Uniform Building Code.

ATTACHMENT 2 **FINDINGS**

FILE NUMBER S09-0016

FINDINGS FOR APPROVAL

1.0 CEQA FINDINGS

- 1.1 This special use permit application does not require a subsequent Negative Declaration in accordance with Section 15162 of the California Environmental Quality Act (CEQA). An initial study and Mitigated Negative Declaration was previously adopted for the zone change and Williamson Act Contract applications which analyzed potential impacts related to the development of a winery and tasting room. No new or additional impacts have been identified beyond the impacts evaluated in the previous Mitigated Negative Declaration. As such, no further environmental analysis is necessary. The project shall be subject to applicable mitigation measures and conditions of approval.
- 1.2 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Development Services Department - Planning Services at 2850 Fairlane Court, Placerville, CA, 95667.

2.0 GENERAL PLAN FINDINGS

- 2.1 As proposed, the project is consistent with the Natural Resource (NR) land use designation of the subject site as defined within General Plan Policy 2.2.1.2 because the NR land use designation is intended to provide areas for agriculture, such as the Miraflores Winery.
- 2.2 As conditioned, the proposal is consistent with General Plan Policies 2.2.5.21, land use compatibility, 5.2.1.2, water quality, 6.2.3.2, emergency access, 8.1.4.1, agricultural lands protection, and 10.1.6.1, tourism promotion. Because of the project's compatibility with surrounding land uses, provision of sufficient water, emergency access, compatibility with agricultural lands, and tourism promotion, it is consistent with the General Plan policies identified above.

3.0 ZONING FINDINGS

- 3.1 The proposed use is permitted by special use permit in the Exclusive Agricultural (AE) zone district, pursuant to Section 17.36.070.K which refers to the Winery Ordinance, Section 17.14.190. The proposed tasting room use is authorized under Section 17.14.200.E.5.b of the Winery Ordinance provided that the administrative findings outlined below can be made by the Planning Commission.

3.2 As proposed and conditioned, the project meets all applicable development standards contained within the El Dorado County Zoning Ordinance because sufficient parking is provided, adequate setbacks are proposed, and outdoor project lighting will be fully shielded.

4.0 ADMINISTRATIVE FINDINGS (SPECIAL USE PERMIT)

4.1 *The issuance of the permit is consistent with the General Plan.*

As discussed above, the proposal is consistent with the following applicable General Plan Policies 2.2.5.21, land use compatibility, 5.2.1.2, water quality, 6.2.3.2, emergency access, 8.1.4.1, agricultural lands protection, and 10.1.6.1, tourism promotion.

4.2 *The proposed use would not be detrimental to the public health, safety and welfare, or injurious to the neighborhood; and*

The proposed use will not be detrimental to the public health, safety and welfare or injurious to the neighborhood as it will fit within the context of the surrounding mix of residential and public land uses adjacent to the subject site. Potential land compatibility issues such as access, lighting, parking, and noise will be addressed through compliance with the conditions of approval in Attachment 1.

4.3 *The proposed use is specifically permitted by special use permit pursuant to this Title.*

The proposed use is specifically permitted by special use permit pursuant to Section 17.14.200.E.5.b of the El Dorado County Zoning Ordinance as the required findings detailed above may be made by the Planning Commission.