

**EL DORADO COUNTY DEVELOPMENT SERVICES
STAFF REPORT**



Agenda of: July 19, 2006
Item No.: 6.a
Staff: Winnifred Wilson

SPECIAL USE PERMIT

FILE NUMBER: S 03-08 R

APPLICANT: Albert diVittorio

REQUEST: A special use permit to revise Condition 1 of the approved Special Use Permit (S03-08) to allow increase production of fermented grape wines from a maximum limit of 3,000 gallons to 10,000 gallons annually, and to increase non-grape distillate from 100 gallons to 600 gallons annually.

LOCATION: On the south side of U.S. Highway 50, approximately 0.25 mile west of the intersection with Carson Road in the Camino area. (Exhibit A).

APN: 043-480-34

ACREAGE: 13.79 acres

GENERAL PLAN: Agricultural Lands (AL) (Exhibit B)

ZONING: Select Agriculture, 10 acres (SA-10) (Exhibit C)

ENVIRONMENTAL DOCUMENT: Categorically Exempt pursuant to Section 15303 Class 3 (e) of the CEQA Guidelines

SUMMARY RECOMMENDATION: Conditional Approval

BACKGROUND: In November of 2000, the applicant applied for a business license, and the required ATF and ABC permits to operate a small family bonded winery and distillery for the production of specialty wine, fortified wines, and fruit distillates in the two accessory structures, the 3,000 square foot processing building and the 1,100 square foot storage building on his single-family residential lot (Exhibit D). The business license was issued as an extended home occupation, with no on-site retail sales.

On November 26, 2002, the County Department of Agriculture sent a letter to the applicant stating that the winery operation did not meet the criteria for a winery in the SA-10 Zone District in that: (a) the parcel was less than 20 acres; and (b) the property did not contain a minimum of five acres of planted grapes (Section 17.14.190 Wineries Ordinance). On April 21, 2003, the Agricultural Commission held a special meeting to consider the continued operation of the winery. The Commission concluded that the winery should be allowed subject to a special use permit for a home occupation with the following restrictions: (1) there would be no benefits of the County's Ranch Marketing Ordinance or Winery Ordinance such as wine tasting rooms, on-site sales, or other accessory uses; all the fruits used in the wine production will be 100 percent from El Dorado AVA or within El Dorado County; the capacity is limited to an annual production of 3,000 gallons of fermented wines and 100 gallons of non-grape distillate.

STAFF ANALYSIS

Project Description: The applicant, after obtaining the extended home occupation permit under S 03-08 to operate his winery and distillery business in August, 2003, requested to expand the production capacity of his facility in a letter dated November 15, 2005. The request is to increase production of fermented grape wines from a maximum limit of 3,000 gallons (restricted by Condition No.1 of S03-09) to 10,000 gallons annually, and to increase non-grape distillate from 100 gallons to 600 gallons annually. The applicant believes that his business is unique in using multiple agricultural products from the County for his home occupation winery and distillation business, and in providing the sole local source for distilled spirits in the County. In addition, he plans to augment the current needed market for local grapes. There would be no enlargement in building footprints of the facility and no site modification.

The increased production would continue to occur in the 3,000 square foot *production* building, and the 1,100 square foot storage or *aging* building, which would be adequate to house the requested increased production. Equipment includes picking bins, a crusher, hydraulic press, stainless steel tanks (3,300 gallon capacity), barrels, a tractor and forklift, pumps, filter and distillation unit (Exhibit E). The fruits used as raw materials include El Dorado County grown grapes, honey, and various fruit from local growers (i.e. cherries, nectarines, apples, and berries). Wine is made on-site through processing the grapes and/or various fruits by crushing, fermentation and pressing. The products are stored in tanks and racked for several months prior to storage in barrels. Bottling and labeling are performed on-site when the product is ready for marketing. Distillation is accomplished by heating a supernatant derived from fermented products such as grapes, apples and other fruits and an alcohol product, then condensing it for use in fortification of wines and the production of various brandies. Storage occurs in barrels for varied periods of time ranging from one to five years. Waste disposal involves the residual from wine fermentations (which include stems, seeds, skins and sediment), and from distillation after the alcohol is removed. Solid waste is disposed of as compost and liquid waste from the distillation process is pH neutralized before returning to the land as irrigation water.

A tasting room is not proposed to be located on the premises. All sales will take place off-site through wine clubs, internet sales, and direct sales to small restaurants and through the mail. Currently, the applicant has 6,000 gallons of wine in storage and 120 gallons of distillate. The applicant does not intend to plant five acres of wine grapes. The applicant does not have a minimum 20 acre-site or five

acres of vineyards to qualify for the current winery ordinance. No product has yet been sold.

Site Description: The project site comprises 13.79 acres of forested land ranging in slope from relative flat to slopes over 30 percent. Existing improvements include a residence, winery building and wine storage structure. Access to the site is from Seven Ridges Road, which is not a County maintained road.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	SA-10	AL	Residence and accessory structures
North	SA-10	AL	U.S. Highway 50
South	SA-10	AL	Vacant
East	RE-10	RR	Single-family residence/building structure
West	SA-10	AL	Single-family residence

Discussion: As noted above, the project site is surrounded by Agricultural Land (AL) to the north, west, and south, with Rural Residential (RR) property to the east while U.S. Highway 50 is located approximately 264 feet to the north.

General Plan: The General Plan designates the subject site as Agricultural Lands (AL) and is applicable only in the Rural Region in which the project site is located.

Policy 8.1.1.8: *Lands assigned the Agricultural Land (AL) designation shall be of sufficient size to sustain agricultural use and should possess one or more of the following characteristics:*

- A. *Are currently under a Williamson Act or Farmland Security Zone Contract;*
- B. *Contain the characteristics of choice agricultural land (i.e., contain choice agricultural soils and/or contain Prime Farmland, Farmland of Statewide Importance, Unique Farmland, or Locally Important Farmland); or*
- C. *Are under cultivation for commercial crop production or are identified as grazing land; and one of the following:*
 - 1. *Are located in the county’s Rural Region; or*
 - 2. *The County Department of Agriculture has determined that the land is well suited for agricultural production.*

Discussion: The subject parcel, located in the Rural Region, is in choice agricultural land containing soils predominantly in Locally Important Farmland, with a narrow north strip of the site located in

Farmland of Statewide Importance. The applicant does not plan to cultivate any crops (including wine grape) on his land and therefore is not subject to the Winery or the Ranch Marketing Ordinance. The proposed project is to enlarge the existing capacity of the wine and distillery facility located in the two accessory structures.

Policy 8.1.4.1: *The County Agricultural Commission shall review all discretionary development applications and the location of proposed public facilities involving agricultural district and Williamson Act Contract land, 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: The increased capacity of the facility will not generate any conflicts to the adjacent Rural Residential (RR) or Agricultural Lands (AL) properties because the agricultural support business is conducted within the two accessory structures with no on-site employees and no sales to be conducted on the premises. There is more than adequate agricultural buffering for the subject parcel. The two existing accessory structures are set back approximately 190-feet from the west property line and approximately 357 feet from the east property line, while the minimum agricultural structural setbacks on all yards are 50-feet pursuant to *Section 17.36.260 (C)*.

On April 21, 2006, the Agricultural Commission voted to approve the expanded Home Occupation permit to increase annual production capacity for grape wines from 3,000 gallons to 7,000 gallons, instead of the 10,000 gallons requested, and annual non-grape fruit distillates from 100 gallons to 600 gallons. The production capacity is restricted to 7,000 gallons of grape wine and 600 gallons of non-grape distillate annually because the Agricultural Commission wants to ensure that the extended home occupation under this Special Use Permit not be misused and thereby setting a precedence.

Conclusion: The proposed capacity increase for the wine/distillation facility would not generate additional traffic because there would be no employees on site and all sales would be conducted off the premises. As discussed above, staff finds that the project, as proposed/conditioned, conforms to the General Plan.

Policy 8.2.2.2: *The approving authority shall make the following findings when approving special use permits for agricultural support services:*

- A. *The use will not substantially detract from agricultural production in the surrounding area; and*

- B. The use is compatible with and will not have a significant adverse impact on adjacent or nearby neighborhoods beyond that allowed by the Right to Farm Ordinance and other applicable law.*

Discussion: The proposed project would not detract from agricultural production in the surrounding area, as the processing and distillation business is conducted within the two existing accessory structures, with more than adequate agricultural buffering on the site as discussed previously. At the meeting of April 21, 2006, the Agricultural Commission unanimously recommended approval of the proposal subject to the following revised Conditions: (1) an increased annual capacity to 4,000 gallons of grape juice used for distillate and 3,000 gallons of grape wine for a total production of 7,000 gallons; and an annual increase to 600 gallons of non-grape distillate. This approval was based on the fact that the project may be allowed under the provisions of Section 17.36.240 (E) of County Code. The findings have been included on Attachment 2.

The proposed increased capacity of 4,000 gallons would generate a total of 8 to 10 truck traffic during the harvest season (the four month period between September and November) as compared with 3 to 4 truck traffic (approved by S03-08) before the proposed increase. This means an addition of 5 to 6 truck traffic trips per harvest season. The increased capacity of non-grape distillate would be handled by the applicant's pick up truck, which would generate an addition of 5 trips throughout the year.

Conclusion: As discussed above, staff finds that the project, as proposed/conditioned, conforms to the General Plan and would not generate an adverse impact on the adjacent properties.

Policy 10.1.7.2: *Assist small business in the County.*

Policy 10.1.7.4: *Home occupations shall be encouraged and permitted to the extent that they are compatible with adjacent or surrounding properties.*

Discussion: Both policies are in support of General Plan Objective 10.1.7 to "promote the establishment and expansion of small business and work place alternatives including home occupations, telecommuting business, and technology transfer based industries". The project would be in conformance with the two above policies and Objective 10.1.7.

Zoning: The proposed use is permitted in the Select Agriculture, 10 acre (SA-10) Zone District, pursuant to Section 17.36.240 (E), which permits home occupations that require special consideration with approval of a special use permit, as follows:

"Home occupations not allowed by right under subsection B of Section 17.36.230, and which will require special consideration resulting, for example, from the use of power tools or accessory buildings, or where excessive noise will be created, provided such home occupation uses will not change the agricultural character of the premises, or adversely affect the other uses permitted in an agricultural area..."

Discussion: The project would not detract but would be compatible with the agricultural character of the surrounding neighborhoods. As mentioned previously, there are more than adequate agricultural setbacks on the subject property. Moreover, the existing winery and distillation facility is sited too far away to have an adverse impact on the adjacent properties to the east and west. The building on the adjacent parcel to the east of the existing winery and distillation facility is approximately 610 feet away while the adjacent single-family residence is located approximately 540 feet to the west.

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. Based on comments received from public agencies, citizens' groups, and impacted neighbors, as discussed below, staff finds that the project would not be detrimental to the public health, safety and welfare and would not be injurious to the neighborhood.

Section 17.36.210 states: “..... *encouraging these pursuits by providing additional opportunities for the sale, packing, processing, and other related activities which tend to increase their economic viability*”.

Discussion: The proposed use is consistent with the purpose of this section. It is a unique family-run small winery and distillation business in that it would stimulate the agricultural economic base of the County by providing a needed market for a variety of local fruits (including grape, apples, and cherries) by utilizing these products as raw materials for fermentation and distillation, and by being the sole local producer of distilled spirits in the County.

Agency and Public Comments: The following agencies provided comments on this application:

El Dorado County Air Quality Management District
El Dorado County Environmental Management Department
El Dorado County Department of Transportation
El Dorado County Agricultural Commission
California Regional Water Quality Control Board

El Dorado County Air Quality Management District

The District commented that since there would be no grading and building construction on site, there would be no air quality impacts.

El Dorado County Environmental Management Department

The Department provided comments indicating that conditions should be added to the project requiring the submission of a Notice of Intention to comply with waste discharge requirements and a hazardous materials business plan if storage of reportable quantities of hazardous materials is anticipated.

El Dorado County Department of Transportation

The Department did not provide comment or conditions for the project since there was no tasting room involved.

El Dorado County Agricultural Commission

The Agricultural Commission recommended approval of the project with the following revised conditions to Special Use Permit 03-08:

1. There will be no benefits of the County's Ranch Marketing Ordinance or Winery Ordinance, which includes no wine tasting room, no on-site sales, or any other accessory uses;
2. The sourcing of the product, which includes all the fruit used, will be 100 percent from the El Dorado AVA or within El Dorado County.
3. The capacity is limited to an annual production of 4,000 gallons of fruit juices used for distillate and 3,000 gallons of wine for a total production of 7,000 gallons of fermented wines and 600 gallons of non-grape distillate.

California Regional Water Quality Control Board:

California Water Code Section 13260(a) requires that any person discharging waste or proposing to discharge waste (i.e., winery wastewater and solids) to surface water or land must file a Report of Waste Discharge (RWD) and obtain either Waste Discharge Requirements (WDRs) or a waiver of WDRs from the Regional Board. If the winery either crushes less than 80 tons of grapes per year, produces less than 100,000 gallons of wastewater annually, or collects and hauls all process wastewater off-site for disposal, then the applicant can apply for a waiver of WDRs. Otherwise, the applicant must comply with Waste Discharge Requirements (WDRs), and submit a Report of Waste Discharge with the Regional Board prior to discharging any winery related wastewater to the land.

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

This project has been found to be Categorical Exempt from the requirements of CEQA pursuant to Section 15303 (e) of the CEQA Guidelines stating that "accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences" are classified as new construction or conversion of small structures and are exempt from further environmental review. Pursuant to Resolution No. 240-93, a \$35.00 processing fee is required by the County Recorder to file the Notice of Exemption.

RECOMMENDATION

Certify that the project is Categorical Exempt from CEQA pursuant to Section 15303 Class 3 (e) and approve the special use permit based on the findings in Attachment 2, and subject to the conditions in Attachment 1.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1	Conditions of Approval
Attachment 2	Findings
Attachment 3	Agricultural Commission's letter of recommendation
Exhibit A	Vicinity Map
Exhibit B	General Plan Land Use Map
Exhibit C	Zoning Map
Exhibit D	Site Plan
Exhibit E	Site Photographs

ATTACHMENT 1

CONDITIONS OF APPROVAL

FILE NUMBER S03-08R

CONDITIONS OF APPROVAL

El Dorado County Planning Services

1. The project, as approved, consists of the following:

Operation of a small family winery and distillery for the production of specialty wines, fortified wines, mead and fruit distillates ~~in an accessory structure and storage in an~~ in a 3,000 square foot processing structure and 1,100 square foot storage building. Production would be limited to a maximum of ~~3,000~~ 7,000 gallons of fermented grape wines (4,000 gallons of wine used for distilling materials and 3,000 gallons of wine) and ~~400- 600~~ gallons of non-grape distillate annually with no site modifications. All product used in the production will be 100 percent from the El Dorado AVA or within El Dorado County. There will be no benefits of the County's Ranch Marketing Ordinance or Winery Ordinance. A tasting room will not be located on-site. All sales will take place off-site through wine clubs, internet sales, and direct sales to small restaurants and through the mail.

2. All site improvements shall conform to Exhibits D and E.
3. Pursuant to Section 17.22.260(A) of the County Code, the special use permit shall expire if the use ceases for a period of one year.

Environmental Management Department

4. ~~The applicant shall submit a Notice of Intent (NOI) to comply with the terms of General Waste Discharge Requirements Order No. R5-2003-0029 for on-site storage and off-site disposal of wastewater. The NOI shall include a Solids Storage and Disposal Operations and Maintenance Plan for the solid waste applied on-site.~~

Waste Discharge Requirements:

Based on comments from the California Regional water Quality Control Board, Central Valley Region, California Water Code Section 13260(a) requires that any person discharging waste or proposing to discharge waste (i.e., winery wastewater and solids) to surface water or land must file a Report of Waste Discharge (RWD) and obtain either Waste Discharge Requirements (WDRs) or a waiver of WDRs from the Regional Board.

If the proposed winery either (a) will crush less than 80 tons of grapes per year, (b) will produce less than 100,000 gallons of wastewater annually, or (c) will collect and haul all

process wastewater for disposal off-site, then the winery should qualify for a waiver of WDRS under Resolution No.R5-2003-0106. If the discharge at the winery will not meet the conditions of Waiver Resolution No. R5-2003-0106, the owner of the winery must submit a RWD for individual WDRs.

Storm Water Permit Information:

Depending on the Standard Industrial Classification (SIC) code of the final project, compliance with the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000001 for Discharges of Storm Water Associated with Industrial activities may be required. In order to obtain coverage by the General Permit, the proponent must submit a Notice of Intent to comply with the permit (NOI) to the State Water Resources Control Board and a Storm Water Pollution Prevention Plan (SWPPP) must be prepared. If construction associated with the project will disturb more than one acre or is part of a large common plan of development that encompasses one or more acres, the property owner needs to obtain NPDES General Permit No. CAS000002 for Discharges of Storm Water Associated With Construction Activity. Before construction begins, the proponent must submit an NOI to comply with the permit to the State Water Resources Control Board and a SWPPP must be prepared.

5. Under the CUPA programs, if the operation will involve the storage of reportable quantities of hazardous materials, a hazardous materials business plan for the site must be submitted to the Department and applicable fees paid.

ATTACHMENT 2 FINDINGS

FILE NUMBER S03-08R

1. The project has been found to be Categorical Exempt from *CEQA* pursuant to *Section 15303 (e) Class 3* related to accessory structures.
2. The proposed use is consistent with the policies in the El Dorado County 2004 General Plan.
3. The use is found to comply with *Section 17.36.240, Uses Requiring Special Use Permit in IV Select Agricultural (SA-10) District of the County Code*, and the proposed use is not considered detrimental to the public health, safety, and welfare, or injurious to the neighborhood, based on the conclusions contained in the staff report.