

**EL DORADO COUNTY DEVELOPMENT SERVICES
ZONING ADMINISTRATOR
STAFF REPORT**



Agenda of: January 7, 2009
Item No.: 5.a.
Staff: Thomas A. Lloyd

VARIANCE

FILE NUMBER: V08-0013

APPLICANT: Thomas N. Cooper/Holly's Hill Vineyards

AGENT: ANOVA Architects/Charlie Downs

REQUEST: A variance request to 1) Reduce the front yard setback required by Section 17.36.080.E from 30 feet to five feet to allow construction of six 5,000 gallon water storage tanks required for compliance with fire regulations; and 2) A reduction of the 50 foot setback required by Section 17.14.190.D.2.a to 35 feet to allow a 2,190 square foot expansion of the winery building.

LOCATION: On the west side of Leisure Lane, approximately 1.8 miles southwest of the intersection with Pleasant Valley Road in the Pleasant Valley area, Supervisorial District II (Exhibit A).

APN: 078-240-21

ACREAGE: 10.82 acres

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

ZONING: Exclusive Agricultural (AE) (Exhibit C)

ENVIRONMENTAL DOCUMENT: Categorically exempt pursuant Section 15305(a) of the CEQA Guidelines.

RECOMMENDATION: Staff recommends the Zoning Administrator take the following actions:

1. Find that the project is Categorically Exempt pursuant to *Section 15305(a)* of the *CEQA Guidelines*; and
2. Approve Variance V08-0013 subject to the conditions in Attachment 1 and based on the findings in Attachment 2.

BACKGROUND: On May 5, 2008 the applicant applied for a building permit to allow the expansion of the subject winery building, effectively converting an existing barn constructed under building permit #125521. Through the initial review of the site plan by permit center staff, it was discovered that as proposed, the expansion was encroaching into the setback required for wineries by the zoning ordinance. Further, the water tanks required by the Fire District for sprinklered suppression were encroaching into the setback required by the development standards of the Exclusive Agricultural (AE) zone district.

On August 25, 2008, the applicant submitted a Boundary Line Adjustment application in hopes of remedying the setback issues. Planning Services distributed the application accordingly. Upon review of the project by the Agricultural Department, it was determined that a Boundary Line Adjustment would require an amended Williamson Act Contract. As an alternative, Planning Services recommended this variance to reduce the required setbacks and allow issuance of building permit #188446. Boundary Line Adjustment application BLA 08-0047 was formally withdrawn.

STAFF ANALYSIS

Site Description: The 10.82 acre subject parcel is located in the Pleasant Valley area, on the west side of Leisure Lane, approximately 1.8 miles southwest of the intersection with Pleasant Valley Road. The approximate elevation of the parcel is 2,500 feet above mean sea level. Existing improvements include a single-family residence converted to a wine tasting room under building permit #130160 in 2001, and a barn/winery, the expansion of which is the subject of this variance. Other improvements include hardscape, landscaping, parking areas, a driveway, and more than five acres of planted grapes.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	AE	AL-A	Winery, wine tasting room, vineyard
North	RA-20	AL-A	Single-family residence
South	RE-10	RR-A	Single-family residence
East	RE-5	LDR	Single-family residence
West	AE	AL-A	Single-family residence, vineyard

The area is found in the Pleasant Valley area, with the subject parcel and those on three sides located in the Pleasant Valley Agricultural District. The agricultural nature of the area is dominated by large parcel sizes, numerous agricultural preserves, and vineyards found in the project vicinity. Many of the parcels in the area are developed with single family residences and appurtenant structures, most of which are barns supporting agricultural pursuits. The reduced setback requested by this variance will impact the northern property line of the subject parcel. The neighboring residence on the adjacent parcel is buffered from the subject winery building by

both a horse paddock and a barn, and is located approximately 300 feet from the property line from which the setbacks will be reduced.

General Plan: The County General Plan designates the subject parcel as Agricultural Lands-Agricultural District (AL-A). **Policy 8.1.1.8** identifies that 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 of Farmland Security Zone Contract; B) Contain the characteristics of choice agricultural Land; or 3) 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. **Policy 2.2.2.2** states that the Agricultural District (-A) overlay designation is to identify the general areas which contain the majority of the County's federally designated prime, State designated unique or important, or County designated locally important soils, and which the Board of Supervisors has determined should be preserved primarily for agricultural uses. Pursuant to Section C of said Policy, ranch marketing is encouraged on lands engaged in agricultural production.

Discussion: At 10.82 acres, in an active Williamson Act contract, with agricultural production, both the subject parcel and the proposed winery expansion are consistent with the base General Plan land use designation and the Agricultural District overlay.

Policy 2.2.5.21 requires development projects to be located and designed in a manner that avoids incompatibility with adjoining land use that are permitted by policies in effect at the time the development project is proposed.

Discussion: The applicant is requesting a reduction in front yard setback from 30 feet to five feet to allow construction of six 5,000 gallon water storage tanks required for compliance with fire regulations, and a reduction of the 50 foot setback required by Section 17.14.190.D.2(a) to 35 feet to allow a 2,190 square foot expansion of the winery building. The project was distributed to all applicable responsible agencies, and no comments or conditions were received to prevent approval of the variance. The reduced setbacks would not have a significant impact on the neighboring residence as it is separated from the proposed 12-foot diameter by eight-foot tall water tanks, and the subject winery building by both a horse paddock and a barn, and is located approximately 300 feet from the property line. It should also be noted that the adjacent property owners supported the initial Boundary Line Adjustment proposal, cooperating fully with the process. As such, the proposed variance is not anticipated to negatively impact the public health, safety, and welfare, or injurious to the other residential uses in the project area.

Pursuant to **Policy 8.1.3.5**, on any parcel ten acres or larger identified as having an existing or potential agricultural use, the Agricultural Commission must consider and provide a recommendation on the agricultural use or potential of that parcel, and whether the request will diminish or impair the existing or potential use prior to any discretionary permit being approved.

Further, **Policy 8.1.4.1** requires the Agricultural Commission to 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 to make recommendation to the

reviewing authority, specifically addressing whether the proposed use will A) Not intensify existing conflicts or add new conflicts between adjacent residential areas and agricultural activities, B) Not create an island effect wherein agricultural lands located between the project site and other non-agricultural lands will be negatively affected, and C) Not significantly reduce or destroy the buffering effect of existing large parcel sizes adjacent to agricultural lands.

Discussion: The project proposal was forwarded to the El Dorado County Agricultural Commission for review and inclusion on their regular agenda. Following a site visit and analysis of the parcel, Agricultural Department staff recommended approval, as the findings could be made for Policy 8.1.4.1. At a regular meeting of the El Dorado County Agricultural Commission, held November 12, 2008, a 6-0 vote passed a motion recommending approval of a variance for the winery building based on the applicable agricultural policies.

Conclusion: As discussed above, staff finds that the variance, as proposed and conditioned, conforms to the County General Plan.

Zoning: The subject parcel is zoned Exclusive Agricultural (AE), which allows a minimum parcel size of twenty acres, though an agricultural preserve may consist of a parcel or contiguous parcels of between ten and twenty acres if the property meets all of the special criteria established by the County in the Williamson Act. Agricultural Preserve #278 and subsequent Ordinance 4566 were approved and adopted by the Board of Supervisors on October 24, 2000. The subject winery, wine tasting, and the growing and cultivation of grapes are permitted in part as "by right" activities and in part pursuant to the provisions of Section 17.14.190 in the Exclusive Agricultural (AE) zone district.

Section 17.14.190.D.2(a) requires a minimum 50-foot setback for wine tasting facilities and all accessory structures and uses for properties located within a General Plan designated Agricultural District. Further, the development standards contained in 17.36.090.F mirrors this requirement with a minimum agricultural structure setback of 50 feet on all yards.

With regards to the six proposed 5,000 gallon water tanks, the development standards of 17.36.090.E require a 30-foot setback on all yards. The subject setback to be varied has been deemed a "front" yard, as there is a 30-foot road easement found entirely on the neighboring parcel, the southern extent of which coincides with the property line.

Discussion: The original winery production facility was approved by Planning Services in 2000, prior to the adoption of the current General Plan. At that time, the minimum setback requirement was 30 feet. Anticipating future expansion, the applicant intentionally situated the winery building 50 feet from the property line, thus affording themselves an additional 20 feet for an expansion. Since that time, the setback requirements for wineries have become more stringent. With the existing site configuration, topography, access issues, and fire district requirements, the only possible expansion locations are to the north and south of the existing structure, as proposed with his project.

The project requests a variance based on *Section 17.22(X)* which provides a procedure through which the provisions of Title 17 may be varied or modified in cases where practical difficulties and unnecessary hardships make strict application infeasible.

Variance Findings: The granting of a variance requires four findings pursuant to *Section 17.24.040* of the *County Zoning Ordinance*. These findings for approval and their respective discussions are listed in Attachment 2 of this report.

Conclusion: As discussed above, staff finds the variance, as proposed and conditioned, is consistent with all applicable provisions of *County Zoning Ordinance Title 17*.

ENVIRONMENTAL REVIEW

This project has been found to be Categorically Exempt from the requirements of California Environmental Quality Act (CEQA) pursuant to *Section 15305(a)* of the CEQA Guidelines. This section allows minor alterations in land use limitations for a variance, provided the area has an average slope of less than 20 percent, and no changes in land use or density will occur as a result of the variance. No further environmental analysis is necessary. Pursuant to Resolution No. 240-93, a \$50.00 processing fee is required by the County Recorder to file the Notice of Exemption.

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 District Map
Exhibit D.....	Assessor's Map
Exhibit E.....	Variance Support Information from Applicant
Exhibit F.....	Site Photos (from Ag. Department)
Exhibit G.....	Site Plan (Detail)
Exhibit H.....	Memo from Ag. Commission
Exhibit I.....	Aerial Photo

ATTACHMENT 1

CONDITIONS OF APPROVAL

Variance

File Number V08-0013-Holly's Hill Winery Variance Zoning Administrator/January 7, 2009

I. PROJECT DESCRIPTION

1. This variance is based upon and limited to compliance with the project description, the Zoning Administrator hearing Exhibits A through H, dated January 7, 2009, 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:

A variance request to reduce the front yard setback from 30 feet to five feet to allow construction of six water storage tanks required for compliance with fire regulations, and a reduction of the 50 foot setback to 35 feet to allow a 2,190 square foot expansion of the winery building.

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. All plans must be submitted for review and approval and shall be implemented as approved by the County.

II. PROJECT CONDITIONS OF APPROVAL

Planning Services

2. In the event of any legal action instituted by a third party challenging the validity of any provision of this approval, the developer and landowner agree to be responsible for the costs of defending such suit and shall hold County harmless from any legal fees or costs County may incur as a result of such action.

The applicant shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or processing against El Dorado County or its agents, officers, or employees to attack, set aside, void, or annul an approval of El Dorado County concerning a variance.

County shall notify the applicant of any claim, action, or proceeding and County will cooperate fully in the defense.

3. Any exterior lighting installed as a result of this variance shall be "full cutoff compliant." Cut-sheets demonstrating compliance with Illumination Engineering Society of North America (IESNA) standards will be required during building permit review, and prior to building permit issuance, consistent with Section 17.14.170 of the Zoning Ordinance.
4. Prior to issuance of any additional building permits and/or finalizing of Building Permit #188446, the applicant shall pay all Development Services fees in full.
5. Prior to issuance of any additional building permits and/or finalizing of Building Permit #188446, the applicant shall provide a written description, together with appropriate documentation, showing conformance of the project with each condition imposed as part of the project approval.
6. The variance to the setback(s) will be allowed only within the area necessary to construct the project as listed above. All remaining portions of the property setback(s) which are not needed for the proposed project shall remain at the current setback limit.

ATTACHMENT 2

FINDINGS

Variance

File Number V08-0013/Holly's Hill Winery Variance Zoning Administrator/January 7, 2009

1.0 CEQA FINDINGS

- 1.1 This project has been found to be Categorically Exempt from the requirements of CEQA pursuant to *Section 15305(a)* of the CEQA Guidelines. This section allows minor alterations in land use limitations for a variance, provided the area has an average slope of less than 20 percent, and no changes in land use or density will occur as a result of the variance.
- 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 The proposal, as conditioned, is consistent with the applicable policies of the General Plan including: 2.2.2.2 (Agricultural District overlay designation), 2.2.5.21 (compatibility), 8.1.1.8 (Agricultural Lands land use designation), 8.1.3.5 (Agricultural Commission comment on use), 8.1.4.1 (Agricultural Commission review for compatibility between residential and agricultural pursuits); as the existing use of the property is consistent with the intent of both the base land use designation and the Agricultural District overlay, and the project was reviewed and found acceptable by the El Dorado County Agricultural Commission.

3.0 VARIANCE FINDINGS

- 3.1 *There are exceptional or extraordinary circumstances or conditions applying to the land, building, or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings or uses in the vicinity and the same zone, and have not resulted from any act of the owner or applicant.*

The original winery production facility was approved by Planning Services in 2000, prior to the adoption of the current General Plan. At that time, the minimum setback requirement was 30 feet. Anticipating future expansion, the applicant intentionally situated the winery building 50 feet from the property line, thus affording themselves an additional 20 feet for an expansion. Since that time, the setback requirements have become more stringent. With the existing site configuration, topography, access issues,

and fire district requirements, the only possible expansion locations are to the north and south of the existing structure, as proposed with his project.

- 3.2 *The strict application of the provisions of the ordinance requested to be varied would deprive the applicant of the reasonable use of the land or building allowed for other land in the vicinity and the same zone.*

As a commercial structure, the expanded winery building is required by the Fire District to have sprinklered fire suppression with ample water storage. To meet these standards, the tanks must be placed within the required front yard setback. Further, factors including existing access, parking, existing structures, planted vineyard, and topography constrain the site, necessitating the expansion in its proposed form with encroachments into the required 50 foot setback. Without the proposed variance, the applicant's would be neither able to expand their winery facility to its full potential as envisioned during initial construction, nor renovate its current public spaces to fire safe standards.

- 3.3 *The variance is the minimum necessary for the reasonable use of the land or building.*

The variance will reduce the 50-foot setbacks required by both the development standards provisions of the Exclusive Agriculture (AE) zone district (Section 17.36.090.F), and those for wineries found in Section 17.14.190.D.2(a), to 35 feet. Further, the 30 foot front yard setback prescribed by Section 17.36.090.E will be reduced to five feet to allow the construction of fire suppression and irrigation tanks required by the Fire District. The project has been conditioned to prevent any further encroachment in to the required setbacks beyond that necessary to construct the project as described.

- 3.4 *The variance is in conformity with the intent of this article and not detrimental to the public health, safety, and welfare, or injurious to the neighborhood.*

The project was distributed to all applicable responsible agencies, and no comments or conditions were received to prevent approval of the variance. The reduced setbacks would not have a significant impact on the neighboring residence as it is separated from the subject winery building by both a horse paddock and a barn, and is located approximately 300 feet from the property line. As such, the proposed variance is not anticipated to negatively impact the public health, safety, and welfare, or injurious to the other residential uses in the project area.