

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



**Agenda of:** April 26, 2007  
**Item No.:** 9.b.  
**Staff:** Tom Dougherty

**SPECIAL USE PERMIT**

**FILE NUMBER:** S06-0025

**APPLICANT:** Kathleen and Robert Hall

**REQUEST:** Special use permit to allow a home occupation winery proposing to produce a maximum of 500 cases of wine with internet sales and wholesale distribution.

**LOCATION:** On the east side of Greenstone Road, approximately 0.1 mile south of the intersection with Green Valley Road, in the Greenstone area, Supervisor District IV. (Exhibit A)

**APN:** 319-070-09 and -11

**ACREAGE:** 9.723 acres total

**GENERAL PLAN:** Low-Density Residential (LDR) (Exhibit B)

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

**ENVIRONMENTAL DOCUMENT:** Categorically exempt pursuant to Section 15301 (e) of the CEQA Guidelines

**SUMMARY RECOMMENDATION:** Conditional Approval

**BACKGROUND:** The two parcels under the same ownership which are subjects of this request comprise 9.723 total acres. The applicants planted a vineyard of 1571 vines in 2001 on the southernmost parcel, identified by Assessor's Parcel Number 319-070-11, which encompasses approximately 1.5 acres of the 4.723 acre parcel. There are four varieties currently planted including Zinfandel, Petit Sirah, Cabernet Sauvignon, and Sangiovese. The vineyard is trellised and is watered with an existing drip irrigation system with water supplied by the El Dorado Irrigation District. The adjoining parcel to the north is identified by Assessor's Parcel Number 319-070-09, is five acres in

size, and contains an existing 2,024 square-foot single family dwelling built in the early 1960's, a small shed, and a larger barn-type accessory building. The 1,296 square foot accessory building and adjoining 432 square foot concrete pad were finalized with permit #171416 on January 12, 2006. The accessory building contains the winemaking equipment. It is currently a home winemaking operation without the sales. The applicants are proposing to expand their current home occupation winery to include sales of wine.

## STAFF ANALYSIS

**Project Description:** The applicants are proposing to operate a winery as an expanded home occupation as provided by section 17.28.200 A, "packing and processing of agricultural or wood products and the necessary building and structures required therefore where the nature of the product is changed." There will not be a tasting room or tasting area. The facility is proposed to be for wholesale and internet sales only and will not be open to the public.

The winemaking is proposed to be carried out in the existing 36 feet x 36 feet (1,296 square feet) accessory building and adjoining exterior concrete crush pad 12 feet x 36 feet (432 square feet). A total of 1,728 square feet would be utilized in the production of wine on the premises.

The operational activities include crushing grapes and producing and bottling wine in the existing accessory building. The applicants are requesting the proposed output of wine grape products to be 1200 gallons (500 cases) annually. This expected capacity will be housed within the existing accessory building. All operations will be carried out by the parcel owners and family members. There will be no employees. The existing 1.5-acre vineyard on the adjoining acreage will be used in the production. Based on typical yield at vineyards, about three-quarters of the grapes can be expected to be produced on-site, and the rest of the grapes necessary for the wine will be purchased from other growers.

The setbacks for the existing accessory building are at least 50 feet from property lines and intermittent streams as required for an agricultural building. One unlighted 3 foot x 6 foot sign is proposed at the driveway entrance to 3701 Greenstone Road. Staff recommends keeping the sign size to the six square feet that is allowed by right in County Code Section 17.28.190 (D) since it will not be open to the public, and it is a residential district.

Solid waste will be stored and disposed of in accordance with Chapter 8.42 of the County Code. The lees and stems will be recycled onsite in accordance with the Report of Waste Discharge by the Regional Water Quality Control Board. The size of the proposed wine grape production facility is small enough to qualify for a waiver of waste discharge requirements for small food processors, including wineries, in accordance with the criteria set by the California Regional Water Control Board – Central Valley.

**Site Description:** The northern five-acre parcel is covered with miscellaneous blue oaks (*Quercus douglasii*) and interior live oaks (*Quercus wislizenii*) around the single-family dwelling which is surrounded by numerous non-native ornamental plant gardens. The dwelling is set back from the center of Greenstone Road approximately 73 feet, and there currently is no road and utility easement on the subject parcel side of the road. There is a 60-foot wide road and public utility easement on

southern portion of the parcels, and this project will be conditioned to offer 30 feet from the centerline to the County. There is a small barbecue/picnic area on top of a knoll just to the southeast of the dwelling. From there the parcel tends to roll downward in slope to the intermittent stream to the east which enters the parcel in the southeast and exits in the north central portion of the parcel.

The 4.723-acre parcel is vacant except for the 1.5-acres of trellised grapes along Greenstone Road. The rear portion slopes gently eastward outside of the vineyard and is covered predominately by miscellaneous blue oaks (*Quercus douglasii*) and interior live oaks (*Quercus wislizenii*) and then abuts Sylvan Road at the eastern boundary. The parcels are located at approximately the 1,280 foot elevation above sea level.

**Adjacent Land Uses:**

	<b>Zoning</b>	<b>General Plan</b>	<b>Land Use/Improvements</b>
<b>Site</b>	RE-5	LDR	Single family dwelling
<b>North</b>	RE-5	LDR	Single family dwelling
<b>South</b>	RE-5	LDR	Single family dwelling
<b>East</b>	RE-5	LDR	Single family dwelling
<b>West</b>	RE-5	LDR	Single family dwelling

Discussion: The surrounding parcels are predominately five acres or larger and generally have single family dwellings with accessory buildings clustered around them.

**General Plan:** The General Plan designates the subject site as Low Density Residential and Important Biological Corridor (LDR/IBC). LDR permits single-family residential development in a rural setting. Policy 2.2.5.2 requires that applications for discretionary projects, such as a special use permit, shall be reviewed to determine consistency with General Plan policies.

**Policy 7.4.2.9** determined that the Important Biological Corridor (-IBC) overlay shall apply to lands identified as having high wildlife habitat values, and special considerations should be given to retaining oak tree canopy, other tree and shrub corridors, and setbacks from wetlands. The parcels are surrounded by existing deer fencing around both parcels, and no new development other than that which exists today is proposed with this application. The impacts to the trees and wetlands by the existing barn-type accessory building to be used for the winemaking were examined during the General Plan Consistency review for building permit #171416 which was finalized on January 12, 2006.

**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. The subject parcels are not located within lands designated as agricultural, but the Commission reviewed the proposal as they have concerns about the number of home occupation

wineries and their relationship to the Winery Ordinance as well as to the larger commercial wineries located in lands designated as agricultural. The Agricultural Commission reviewed the subject request at their February 14, 2007, meeting and recommended that a limit of 250 cases be placed on the project proposal as an expanded home occupation located outside of an agricultural district and located within a residentially designated portion of the County.

**Policy 8.2.2.2** states that the approving authority shall find that the use will not substantially detract from agricultural production in the surrounding area and that it will be 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. Staff finds that the proposal, as conditioned, would be compatible as the processing and distillation will be conducted predominately within the existing structure, except for crushing which will be done outside on the concrete pad.

**Objective 10.1.7** seeks to promote the establishment and expansion of small businesses and work place alternatives including home occupations. **Policy 10.1.7.2** directs that the County assist small business in the County, and **Policy 10.1.7.4** states that home occupations shall be encouraged and permitted to the extent that they are compatible with adjacent or surrounding properties. Staff has determined that the approval of the proposal, as conditioned, can be found to support these policies, as it would promote a home-based business and would be compatible with surrounding RE-5 zoned properties.

**Conclusion:** The project has been reviewed in accordance with the El Dorado County 2004 General Plan policies, and it has been determined that the project is consistent with the General Plan. Findings of consistency with the General Plan are provided in Attachment 2.

**Zoning:** The property is zoned Estate Residential Five-acre (RE-5), which permits single-family dwellings, accessory structures, and certain home occupations. Section 17.28.170 describes that the purpose of the RE-5 District is to provide for the orderly development of land having sufficient space and natural conditions compatible to residential and accessory agricultural and horticultural pursuits and provide for the protection from encroachment of unrelated uses tending to have adverse effects on the development of the areas so designated.

The proposed use is not specifically listed as a home occupation permitted by right under Section 17.28.190.C, and therefore requires a special use permit pursuant to Section 17.28.200. The following code sections would permit the proposed use with a special use permit:

**Section 17.28.200 (A)** states that a special use permit is necessary, because the applicants propose the packing and processing of agricultural or wood products and the necessary buildings and structures required thereof where the nature of the product is changed. **Section 17.28.200.G** requires that home occupations not listed in subsection C of Section 17.28.190 which require special consideration such as the use of power tools, accessory building, noise, and will not change the residential character of the premises or adversely affect the other uses permitted in a residential area also would require a special use permit.

The property owners propose to make wine in an existing on-site permitted accessory structure that has been converted for winemaking operations. Use of the accessory structure to produce wine would not require any physical site improvements or construction. Water and septic are available

on-site. Grapes from the on-site vineyard would be used for making wine. On occasion, the owner may purchase grapes from local growers to supplement vineyard production. Staff recommends that maximum production would be limited to 250 cases per year, because this has been a limit approved in the past for home occupation wineries, and that is the maximum limit recommended by the Agricultural Commission (Exhibit J). There would be no on-site sales or tasting room, and no employees.

The processing of grapes into wine would involve the operation of mechanical equipment (destemmer/crusher) in the permitted accessory structure. Equipment would operate for short periods of time two or three days per year. The equipment that would be used by the applicant would not generate excessive noise. All information received by staff indicates that there would be no conflict with Section 17.28.200.G.

Liquid and solid waste from wine production would be land applied to the on-site vineyard in accordance with Regional Water Quality Control Board (RWQCB) requirements pertaining to small wineries (Resolution R5-2003-0106), which specifies conditions under which the RWQCB can issue a waiver of waste discharge requirements for small food processors, including wineries that crush less than 80 tons of grapes per year, within the Central Valley Region. The discharger (applicant) is required to submit a Report of Waste Discharge with the application for the waiver and is responsible for complying with monitoring and reporting requirements. Compliance with the waiver requirements will ensure that natural resources that comprise the residential character of the RE-5 zoning are not adversely affected.

## **ENVIRONMENTAL REVIEW**

This project has been found to be Categorical Exempt from the requirements of CEQA pursuant to Section 15301 of the CEQA Guidelines which exempts the minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. Pursuant to Resolution No. 240-93, a \$50.<sup>00</sup> processing fee is required by the County Recorder to file the Notice of Exemption.

## **RECOMMENDATION**

1. Certify that the project is Categorical Exempt from CEQA pursuant to Section 15301 of the CEQA Guidelines; and
2. Approve the special use permit S06-0025 subject to the conditions in Attachment 1, based on the findings in Attachment 2.

## SUPPORT INFORMATION

### Attachments to Staff Report:

Attachment 1 .....	Conditions of Approval
Attachment 2 .....	Findings
Exhibit A .....	Vicinity Map
Exhibit B .....	Assessor's Parcel Map
Exhibit C .....	Record of Survey 027-0009
Exhibit D .....	General Plan Land Use Map
Exhibit E .....	Zoning Map
Exhibits F1 and F2 .....	Site plan S1, Plot Plan S2
Exhibits G1 and G2 .....	Applicant submitted accessory building photograph and black and white elevations
Exhibits H1 to H4 .....	Site visit photographs from February 5, 2007
Exhibit I1 and I2 .....	Aerial photographs
Exhibit J .....	Memo from Agricultural Commission dated February 20, 2007 (two pages)

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# ATTACHMENT 1

## CONDITIONS OF APPROVAL

**File Number S06-0025, Slate Ridge Vineyard and Winery**

### **El Dorado County Planning Services**

1. This special use permit is based upon and limited to compliance with the project description, the Planning Commission hearing exhibits marked Exhibits F1 (S1), F2 (S2), both dated January 6, 2007, Exhibits G1 (two color elevation photographs on one sheet labeled S06-0025) and G2 (labeled Country Barn Company, Rev A, Size C), 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 to allow the production of wine as an expanded home occupation pursuant to section 17.28.200 A of the El Dorado County Zoning Ordinance. No tasting room or tasting area is proposed, and the maximum amount of wine permitted per year will be 250 cases. Grapes from local growers may be used on occasion to supplement vineyard production. The deliveries of those grapes are limited to the bin volume that can be accommodated in the back of a pick-up truck, and there will be no routine deliveries of grapes from off-site vineyards. There will be no on-site sales, tasting room, or employees and all operations will be carried out by the parcel owners and family members. All sales will be wholesale and to occur off-site via internet, telephone, or mail, and in accordance with applicable licensing requirements. The production facility or any portion of the subject parcels related to the wine making will not be open to the public, and access to the accessory building and home-based wine making operation will be from Greenstone Road only.

The winemaking shall only occur in the existing accessory building 36 feet x 36 feet (1,296 square feet) and adjoining exterior concrete crush pad 12 feet x 36 feet (432 square feet), (from Permit # 171416 , finalized by the County Building Services on January 12, 2006). A total of 1,728 square feet would be utilized in the production of altered grape products on the premises. Improvements or modifications to this accessory structure that would increase the height or expand the size are not permitted.

The operational activities shall include crushing grapes and producing and bottling wine in the existing accessory building and on the adjoining concrete pad. Proposed output of wine grape products will be housed within the existing accessory building noted in Exhibits F1, F2, G1 and G2.

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 Landscape and Tree Protection Plans) must be submitted for review and approval and shall be implemented as approved by the County.

2. All outdoor lighting shall conform to §17.14.170 and be fully shielded pursuant to the Illumination Engineering Society of North America's (IESNA) full cut-off designation. Should final, installed lighting be non-compliant with full shielding requirements, the applicant shall be responsible for the replacement and/or modification of said lighting to the satisfaction of the Planning Services.
3. One unlighted sign not to exceed six square feet of message area and eight feet above ground level advertising authorized activities on the premises sign shall be permitted at the driveway entrance to 3701 Greenstone Road, in compliance with County Code Section 17.28.190 (D).
4. Pursuant to County Code Section 17.22.250, implementation of the project must occur within twenty-four (24) months of approval of this special use 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 the conditions of approval.
5. 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 the County harmless from any legal fees or costs the County may incur as a result of such action, as provided in Section 66474.9(b) of the California Government Code.
6. Prior to commencement of any use authorized by this permit, the applicant shall pay all Planning Services processing fees.

#### **El Dorado County Environmental Management – Environmental Health Division**

8. Prior to initiating the use, the applicant shall apply for and obtain a waiver of Waste Discharge Requirements for small wineries in accordance with Regional Water Quality Control Board Central Valley Region Resolution No. R5-2003-0106. The applicant shall comply with the conditions of the waiver and the associated monitoring and reporting program. A copy of the Waiver of Waste Discharge shall be received by Environmental Health Division prior to initiating the use.

**El Dorado County Department of Transportation**

9. The applicant shall verify the existence of 30 feet of County right of way or irrevocably offer to dedicate (IOD), in fee, 30 feet of right of way along the entire on-site frontage along Greenstone Road, and shall be accomplished prior to initiating the use. This offer will be accepted by the County.

**Diamond Springs – El Dorado Fire Protection District**

10. A Knox Lock shall be installed per District requirements prior to initiating the use.
11. A fire apparatus access road shall be provided to meet the County's Design and Improvement Standards Manual and Fire Safe Regulations, addressing driveway width to the structure and turnaround at the structure. Plans for this access roadway shall be reviewed and approved by the Fire District, both before and after construction, prior to initiating the use. This roadway access shall be maintained to the initial construction standard by the applicant as long as the special use permit is in effect.
12. Gates on driveways shall meet County requirements with appropriate Knox lock installation.

# ATTACHMENT 2 FINDINGS

## FILE NUMBER S06-0025

### 1.0 CEQA Findings

- 1.1 El Dorado County has determined that the project is exempt from the requirements of CEQA pursuant to Section 15301(e) of the CEQA Guidelines which exempts the minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.
- 1.2 The documents and other materials which constitute the record of proceedings upon which this decision is base are in the custody of the Development Services-Planning Services at 2850 Fairlane Court, Placerville, CA.

### 2.0 General Plan Findings

- 2.1 As proposed, the project is consistent with the General Plan which designates the subject site as Low-Density Residential and Important Biological Corridor (LDR/IBC) because accessory agricultural uses are compatible as a home occupation.
- 2.2 As conditioned, the proposal is consistent with the intent of General Plan Policies 2.2.5.2, 7.4.2.9, 8.2.2.2, 10.1.7, 10.1.7.2, and 10.1.7.4 because of the review for General Plan consistency, impacts of the proposal on existing natural resources, review of the proposal by the Agricultural Commissioners, and approval of the expansion of a home based business.

### 3.0 Special Use Permit Findings

- 3.1 **The issuance of the permit is consistent with the General Plan.** The applicant's proposal has been determined to be in compliance with County regulations, addressing environmental issues and health and safety concerns. All project-related environmental issues have been evaluated. Therefore, staff finds that the project, as conditioned, conforms to the General Plan.
- 3.2 **The proposed use would not be detrimental to the public health, safety and welfare, or injurious to the neighborhood,** based on the conclusions contained in the staff report. The use will not conflict with the adjacent uses as it will be contained, for the most part, within an existing accessory building. After review of the submitted site plan and upon consultations with concerned agencies, it has been determined that the impacts of allowing the expansion of the existing home-based business within the existing building, using existing driveways and encroachments onto Greenstone, will not have a detrimental affect nor be injurious to the neighborhood.
- 3.3 **The proposed use is specifically permitted by special use permit pursuant to County Code Sections 17.28.200 (A) and 17.28.200.G.**