

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



**Agenda of:** February 26, 2009  
**Item No.:** 8  
**Staff:** Patricia Kelly

**SPECIAL USE PERMIT**

**FILE NUMBER:** S 08-0012/Rancho Olivo Vineyards

**APPLICANT:** Nello Olivo

**REQUEST:** Special Use Permit request to allow the use of an existing 3,750 square foot accessory building for a home-based wine making operation. Wine production would be limited to a maximum of 1,500 cases a year, of which, approximately 750 cases would be sold through wholesale and retail distribution.

**LOCATION:** On the south side of Rancho Road, approximately 660 feet south of the intersection with Lariat Road in the Shingle Springs area, Supervisorial District II. (Exhibit A)

**APN:** 109-090-07

**ACREAGE:** 21 acres

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

**ZONING:** Estate Residential Five-acre – Estate Residential Ten-acre (RE-5- RE-10) (Exhibit C)

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

**SUMMARY RECOMMENDATION:** Conditional Approval

**BACKGROUND:** The twenty-one (21) acre project site consists of seven acres of an existing vineyard, 12,560 square foot barn, 3,750 square foot accessory building, 9,680 square foot residence

and 1,200 square foot guest house. The site had previously been utilized as a horse ranch and ostrich farm. Presently, the seven acres of wine grapes are harvested by ten to twelve people employed for approximately four days and shipped to two facilities, one in the Mount Aukum area and the other in the City of Fairplay for processing. At the entrance to the project site, located adjacent to the driveway, is an undeveloped graded area, consisting of approximately one (1) acre which would be utilized for parking.

**STAFF ANALYSIS**

**Project Description:** The Special Use Permit request would be to allow the use of approximately twenty-one acres, consisting of approximately seven acres of existing vineyards and an existing 3,750 square foot accessory building for wine production. There would be no public tasting room with the facility at this time. A revision to the Special Use Permit would be required if one were to be necessary in the future.

All operational activities including grape crushing, fermentation, and bottling would occur in and around the existing 3,750 square foot accessory building. The accessory building would house the necessary wine making equipment including barrels, tanks, and bottling equipment. All operations, including harvesting, would be carried out by the applicant’s family and one to four part-time (seasonal) employees. The wine produced at the facility would consist of 1,200 to 1,500 cases per year produced entirely with grapes grown on the premises. No wine grapes would be imported. The wine would be made available through wholesale and retail sales and for personal consumption.

**Site Description:** The project site lies within an elevation range of 1,280 to 1,320 feet above sea level. The twenty-one (21) acre project site includes a six year old vineyard which contains 4,700 vines of Cabernet Sauvignon, Petit Sirah, Sangiovese, Barbera, Merlot, Viognier and Primitivo on approximately 7.5 acres. Slopes on-site are moderate and do not exceed 30 percent. Vegetation is dominated by native oaks, pine trees, the vineyard, and introduced landscaping of non-native ornamental plants and trees which surround the existing buildings and residences. Access is provided by Rancho Road which is a paved road that encroaches onto Lariat Road.

**Adjacent Land Uses:**

	Zoning	General Plan	Land Use/Improvements
Site	RE-5/RE-10-	LDR	Single family Dwelling, barn, accessory building, vineyard
North	RE-5	LDR	Single Family Dwelling
South	PA-20	LDR	undeveloped
East	PA-20	LDR	undeveloped
West	RE-5	LDR	Single Family Dwelling

**General Plan:** General Plan **Policy 2.2.1.2** designates the project site as Low Density Residential (LDR). The LDR land use designation provides for single-family residential development in a rural

setting. In Rural Regions, this designation shall provide a transition from Community regions and Rural Centers into the agricultural, timber, and more rural areas of the County and shall be applied to those areas where infrastructure such as arterial roadways, public water, and public sewer are generally not available. **Policy 2.2.5.2** states that all applications for discretionary projects or permits shall be reviewed to determine consistency with the policies of the General Plan. Applicable policies include:

**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 project site is not located within lands designated as agricultural, but the Commission reviewed the Special Use Permit request as they have concerns regarding 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 request at their August 13, 2008 meeting and recommended that wholesale distribution could take place but no other on-site sales or commercial wine tasting events. The Agricultural Commission Agricultural Commission Memorandum is attached as Exhibit G.

**Objective 10.1.7** seeks to promote the establishment and expansion of small businesses and work place alternatives including home occupations. Staff has determined that the approval of the proposal, as conditioned, would support this objective, as it would promote a home-based business and would be compatible with the surrounding Estate Residential Five-acre (RE-5) and Estate Residential Ten-acre (RE-10) zone district properties as the proposed project would not increase traffic, noise, or uses beyond what is consistent with the surrounding residential uses.

**Policy 2.2.5.21** requires projects to be compatible with adjoining land uses. The subject project is in a Low-Density Residential (LDR) District and is surrounded by properties in the LDR District which allows accessory agricultural uses. The proposed Special Use Permit would be compatible with the project site's land use designation as well as adjoining designations as it would be an accessory agricultural use and as conditioned would not impact the residential uses.

**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 would be 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) and Estate Residential Ten-acre (RE-10) which permits single-family dwellings, accessory structures, and certain home occupations. The wine production operation would be located on the designated RE-5 Zone District portion of the project site. Approximately seven acres along the southeast portion of the project site is designated as being in the RE-10 Zone District. A portion of the existing vineyards are located in this area.

**Section 17.28.170** and **Section 17.7.070** describe that the purpose of the RE-5 and RE-10 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 following code sections would permit the proposed use with a Special Use Permit:

**Section 17.28.200 (A)**, which applies to all RE-5 Zone Districts states that a Special Use Permit is necessary because the applicant is proposing 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 17.70.100 (A)** which applies to all RE-10 Zone Districts states that a Special Use Permit is necessary, because the applicant is proposing 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.

The applicant is proposing a wine making operation by using an existing on-site 3,750 square foot accessory building. Use of the accessory building would not require any site improvements or construction.

The wine processing would involve the operation of mechanical equipment (destemmer/crusher) in the accessory structure. The equipment that would be used by the applicant would not generate excessive noise. All information received by staff indicates that there would not be a conflict with the Zoning Code.

**Parking: Section 17.14.190 (B)(2)** states wineries shall be permitted by Special Use Permit if located in the RE-5 and RE-10 Zone Districts. Wineries located in residential zone districts shall be located on parcels that contain twenty (20) acres or more and have a minimum of five (5) acres of planted grapes that are properly maintained and cared for to produce a commercial crop. Should the proper maintenance and are of the required minimum wine grapes acreage cease, as determined by the El Dorado County Agricultural Commissioner, the right to operate the winery becomes void. The designated parking area would be one acre in size, being a flat, hard packed dirt surface and would include an existing parking flood light and would accommodate the one to four seasonal employees required to produce the wine.

**Water and Sewer:** The El Dorado Irrigation District (EID) provides public water to the project site. A septic system exists on-site. Winery waste is under the jurisdiction of the State of California, Central Valley Regional Water Quality Control Board. The California Water Code (CWC) Section 13260(a) requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the State, other than into a community sewer system, shall file with the appropriate Regional Board a Report of Waste Discharge (RWD). Wineries that crush less than 80 tons of grapes per year may receive a formal waiver notification in which wastewater may be applied to cropland at agronomic rates or stored in tanks and removed from the facility for disposal at a regulated facility. 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 would ensure that natural resources that comprise the residential character of the RE-5 and RE-10 Zone District are not adversely affected.

Solid waste would be stored and disposed of in accordance with Chapter 8.42 of the County Code. The leaves, stems, and pomace would be composted on-site. The size of the proposed wine grape production facility and its associated discharge would be small enough in quantity to qualify for a waiver of waste discharge requirements for small food processors, including wineries, in accordance with the criteria set by the Central Valley Regional Water Quality Control Board.

**Conclusion:** As discussed above, staff finds that the project, as proposed/conditioned complies with the El Dorado County Zoning Ordinance.

**Public Comments:** Letters were received from neighbors concerned that the applicant may be proposing a commercial winery with wine tasting, retail sales and special events.

Due to the parcel size, zoning, and acreage of the vineyard, the project site would not qualify for the by right development and uses granted by **Section 17.14.190 Wineries** of the Zoning Code. As discussed in this staff report, the applicant's request for a Special Use Permit to allow the use of an existing 3,750 square foot accessory building for a home based wine making operation would comply with the applicable requirements of the Zoning Code and would be consistent with the General Plan.

At the time of the preparation of this report, staff had received some comments from adjoining property owners that had concerns about the public being allowed to taste wine at the project site and creating a traffic problem and additional noise. This Special Use Permit request does not include a public tasting room, retail sales or special events with the facility at this time. A revision to the Special Use Permit would be required if such uses were requested in the future.

**Agency Comments:**

**County of El Dorado Agricultural Commission:** The Agricultural Commission recommendation as shown in the August 22, 2008, Agricultural Commission Memorandum (Exhibit X) is discussed in the General Plan section of this staff report.

**Cameron Estates Community Services District:** The Cameron Estates Community Services District opposes wholesale and retail sales of wine, wine tasting and special events, sale of wine products, and commercial weddings or large gatherings on the project site.

**El Dorado Environmental Health:** Environmental Health expressed concern regarding waste water discharge as a result of the irrigation process. Conditions have been provided to address said issues.

**El Dorado County Department of Transportation DOT):** DOT does not have any comments for this request.

**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. This guideline states that the installation of small new equipment and facilities in small structures including garages, carports, and patios; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure are exempt. No major improvements have been proposed for this project. 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 15303(e) of the CEQA Guidelines; and
2. Approve Special Use Permit S08-0012 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 .....	General Plan Land Use Map
Exhibit C .....	Zoning Map
Exhibit D .....	Site Plan
Exhibit E .....	Assessor's Map
Exhibit F .....	Site visit photograph dated July 22, 2008 of accessory building
Exhibit G .....	Agricultural Commission Memorandum, dated August 22, 2008

# ATTACHMENT 1

## CONDITIONS OF APPROVAL

File Number S 08-0012 – Rancho Olivo Vineyards  
February 26, 2009, Planning Commission Hearing

### CONDITIONS OF APPROVAL

#### 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 Exhibit D through G, dated February 26, 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, as approved, consists of the following:

The Special Use Permit request will be to allow the use of approximately twenty-one acres, consisting of approximately seven acres of existing vineyards; and an existing 3,750 square foot accessory building for wine production. There will be no public tasting room with the facility at this time. A revision to the Special Use Permit will be required if one were to be necessary in the future.

All operational activities including grape crushing, fermentation, and bottling will occur in and around the existing 3,750 square foot accessory building. The accessory building will house the necessary wine making equipment including barrels, tanks, and bottling equipment. All operations, including harvesting, will be carried out by the applicant's family and one to four part-time (seasonal) employees. The wine produced at the facility will consist of 1,200 to 1,500 cases per year produced entirely with grapes grown on the premises. No wine grapes will be imported. The wine will be made available through wholesale and retail sales and for personal consumption.

On-site parking will be located near the northwest corner of the project site. The designated parking area is approximately one acre in size, being a flat, hard packed dirt surface and will include an existing parking lot flood light. The designated parking area will accommodate the one to four seasonal employees required to produce wine.

Solid waste will be stored and disposed of in accordance with Chapter 8.42 of the County Code.

2. No public shall be permitted on the project site for any wine activities, such as, but not limited to wine tasting, weddings, concerts, winemaker dinners, and festivals.

3. Pursuant to *County Code Section 17.22.250*, implementation of the project shall 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 Conditions of Approval.
4. 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 developer and land owner shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or proceeding 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 Special Use Permit.

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

5. Prior to issuance of any permits, the applicant shall pay all Development Services fees.

### **Environmental Health**

6. Prior to initiating all operational activities including grape crushing, fermentation, and bottling 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.
7. Prior to initiating all operational activities including grape crushing, fermentation, and bottling the applicant shall submit a solid waste management plan for review and approval by the Environmental Management Department, Solid Waste Division. The plan shall include a green waste reduction program that includes the disposal of stems, leaves, and skins of grapes by drying, spreading, and disking the waste into the soil or composting on the winery premises. Pomace may be used on-site as fertilizer or soil amendment, provided that such use or other disposal shall occur in accordance with applicable disposal requirements.



# ATTACHMENT 2

## FINDINGS

File Number S 07-0009  
February 26, 2009 Planning Commission Hearing

### 1.0 CEQA Finding

- 1.1 This project has been found to Categorical Exempt from the requirements of CEQA pursuant to *Section 15303(e)* of the *CEQA Guidelines*. This guideline states that the installation of small new equipment and facilities in small structures including garages, carports, and patios; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure are exempt. No major improvements have been proposed for this project.
- 1.2 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of Planning Services at 2850 Fairlane Court, Placerville, CA 95667.

### 2.0 General Plan Findings

- 2.1 The proposed use is consistent with applicable policies in the 2004 El Dorado County General Plan, as discussed in the General Plan Section of this staff report, specifically *Policy 2.2.5.2* which necessitates this review for consistency, *Policy 2.2.5.21* which provides that development projects shall avoid incompatibility with adjoining land uses, *Objective 10.1.7*, which seeks to promote home occupations, *Policy 10.1.7.4* which assures these home occupations will be compatible with adjacent or surrounding properties, and *Policy 10.1.7.2* which directs the County to assist small businesses.

### 3.0 Special Use Permit Findings

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

The proposed winery, as conditioned, is consistent with the applicable general plan policies as it will promote a home-based business and will be compatible with surrounding properties since there are no public uses allowed on the project site.

- 3.2 *The proposed use would not be detrimental to the public health, safety, and welfare, or injurious to the neighborhood.*

With the specific case limitation placed on the project, as recommended by the Agriculture Commission and Planning Services, the proposed special use permit will not be detrimental to the public health, safety and welfare. Furthermore, the processing and storage of wine

within the existing a 3,750 square foot accessory building will not be detrimental to the neighborhood as the nearest residence is several hundred feet away.

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

The proposed use is allowed by Special Use Permit pursuant to *Section 17.70.100(A)*, which provides for the packing and processing of agricultural or wood products and the necessary buildings and structures required therefore where the nature of the product is changed. Additionally, home occupations which require special consideration and will not change the residential character of the premises or adversely affect the other uses permitted in a residential area are allowed through issuance of a Special Use Permit, pursuant to *Section 17.70.100(G)*.