

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



Agenda of: April 23, 2009
Item No.: 8.a
Staff: Patricia Kelly

SPECIAL USE PERMIT

FILE NUMBER: S08-0026/Chateau Davell Winery

APPLICANT: Eric Hays

REQUEST: Special Use Permit request to allow the use of an existing 432 square foot wine cellar and adjacent 280 square foot concrete crush pad for a micro-winery. Wine production would be limited to a maximum of 250 cases a year which would be sold through wholesale by internet, mail order, telephone, facsimile (and similar means), or off-site only.

LOCATION: On the west side of Big Canyon Road, approximately one-half of a mile south of the intersection with French Creek Road in the Shingle Springs area, Supervisorial District II. (Exhibit A)

APN: 091-170-21

ACREAGE: 12.54 acres

GENERAL PLAN: Rural Residential - Important Biological Corridor (RR-IBC) overlay (Exhibit B)

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

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

RECOMMENDATION

1. Certify that the project is Categorically Exempt from CEQA pursuant to Section 15303(e) of the CEQA Guidelines; and
2. Approve Special Use Permit S08-0026 subject to the conditions in Attachment 1, based

on the findings in Attachment 2.

BACKGROUND: The 12.54-acre project site consists of one acre of planted vineyard. The vineyard has produced grapes for approximately five years. The applicant has purchased oak wine barrels, fermenting tanks and other wine making equipment, all of which are located in the existing wine cellar (garage) and crush pad, below a second residential unit.

STAFF ANALYSIS

Project Description: The Special Use Permit request would be to allow the use of 12.54-acres, consisting of two single-family residences, tool shed, horse shed, orchard, one acre of existing vineyards and an existing 432 square foot wine cellar and adjacent 280 square foot concrete crush pad for a micro winery. The wine would be made available through wholesale and for personal consumption. There would be no on-site sales, public tasting room or public access with the facility.

All operational activities including grape crushing, fermentation, and bottling would occur in and around the existing 432 square foot wine cellar and adjacent 280 square foot concrete crush pad. The wine cellar and crush pad 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. The wine produced at the facility would consist of 250 cases per year produced entirely with grapes grown on the premises. No wine grapes would be imported.

Site Description: The project site lies within an elevation range of 1,000 to 1,050 feet above sea level. The 21.54-acre project site includes a five year old vineyard which contains 450 vines of Syrah, Merlot, Zinfandel, Chardonnay, and Cabernet Franc on approximately one acre. Slopes on-site are moderate and do not exceed 30 percent. Vegetation is dominated by native oaks, pine trees, the vineyard, orchard, and introduced landscaping of non-native ornamental plants and trees which surround the existing buildings and residences. Access is provided by Big Canyon Road which is a County maintained paved road.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	RE-10-	RR/IBC	Residential/Two single family dwellings, accessory buildings, orchard, vineyard
North	RE-10	RR/IBC	Residential/Single family Dwelling
South	RE-10	RR/IBC	Residential/Single family dwelling
East	RE-10	RR/IBC	Residential/Single family dwelling
West	AE	RR/IBC	undeveloped

General Plan: General Plan **Policy 2.2.1.2** designates the project site as Rural Residential (RR) with an Important Biological Corridor (IBC) overlay. The RR land use designation establishes areas for residential and agricultural development. This designation is considered appropriate only in the

Rural Regions. Typical uses include single-family residences, agricultural support structures, a full range of agricultural production uses, recreation, and mineral development activities. **Policy 7.4.2.9** states that the IBC overlay shall apply to lands identified as having high wildlife habitat values because of extent, habitat function, connectivity, and other factors. **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 2.2.5.21 requires projects to be compatible with adjoining land uses. The subject project is in a Rural Residential (RR) District with an Important Biological Corridor (IBC) overlay and is surrounded by properties in the RR 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.

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 project site adjoins land zoned Exclusive Agricultural (AE). 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 micro-wineries and their relationship to the new Winery Ordinance as well as to the larger commercial wineries located in lands designated as agricultural. **Policy 8.1.3.5** states that any parcel 10-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 would diminish or impair the existing or potential use prior to any discretionary permit being approved. The Agricultural Commission reviewed the request at their February 11, 2009 meeting and recommended approval of the Special Use Permit for allowing a micro-winery on the subject property because the proposed micro-winery would not change the residential character of the subject property nor would it adversely affect the other uses permitted in the estate-residential area. The Agricultural Commission Memorandum is attached as Exhibit F.

Objective 10.1.7 seeks to promote the establishment and expansion of small businesses and work place alternatives. 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 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.

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 applicable policies of General Plan. Findings of consistency with the General Plan are provided in Attachment 2.

Zoning: The property is zoned Estate Residential Ten-acre (RE-10) which permits single-family dwellings, accessory structures, and certain home occupations. The proposed micro-winery is an allowed use pursuant to **Section 17.14.200 Wineries**, and **Section 17.70.070** of the Zoning Ordinance, which allows for the orderly development of wineries and accessory uses within

specified agricultural zones and specified residential zones to ensure compatibility with adjacent land uses.

Section 17.14.200 (D) (10) (a-h) allows micro-wineries to be permitted by a discretionary permit in the RE zone districts and supersedes **Section 17.70.100 (A)** which applies to the RE-10 Zone District and 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.

All micro-wineries are subject to all of the following provisions:

- a. **Minimum Lot Size.** All micro-wineries shall be located on a lot of five acres or more.

The project site consists of a 12.54 acre parcel.

- b. **Vineyard Standards.** All micro-wineries shall have a minimum of one acre planted wine grapes on the same lot. One acre shall mean a planting of wine grapes spanning an area of at least 43,560 square feet and consisting of a minimum of 440 grape vines. These wine grapes shall be properly maintained and cared for to produce a commercial crop. Should the proper maintenance and care of the required minimum wine grapes acreage cease, as determined by the El Dorado County Agricultural Commissioner, the right to operate the micro-winery becomes void.

The 12.54-acre project site includes one-acre of a productive five year old vineyard which contains 450 vines of Syrah, Merlot, Zinfandel, Chardonnay, and Cabernet Franc.

- c. **Wine Sales.** Wine sales shall be by internet, mail order, telephone, facsimile (and similar means), or off-site only. No on-site sales, tasting, or public access is allowed.

The wine produced at the facility would consist of 250 cases per year produced entirely with grapes grown on the premises. The wine would be made available through wholesale sales and for personal consumption. There would be no on-site sales, public tasting room or public access with the facility.

- d. **Limitation on Accessory Uses.** No other accessory uses described in this Winery Ordinance is permissible on the site. In no circumstances is wine tasting allowed on-site. No Conditional Use Permit (CUP) can be approved that permits wine tasting or wine tasting by appointment.

Approval of this Special Use Permit would not allow wine tasting or wine tasting by appointment on the project site.

- e. **Compliance with Laws.** All other local, State, and federal laws shall apply and compliance shall be verified prior to operation. At a minimum:

- i. Fire Department shall review the facility for consistency with Fire Code Regulations.

Planning Services requested comments from the El Dorado County Fire Protection District at the time the project request was submitted. The Fire District did not provide comment or conditions for this request. Any Fire District comments submitted after the publishing of this staff report will be addressed at the Planning Commission hearing.

- ii. Waste Discharge permit or Waiver of Discharge Permit from Regional Water Quality Control Board;

The project would require a condition of approval for the applicant to obtain a Waiver of Discharge Permit from the Regional Water Quality Control Board.

- iii. Winegrower license from the Alcoholic Beverage Control.

The project would include a condition of approval for the applicant to provide a copy of the Winegrower License obtained from the Alcoholic Beverage Control to Planning Services.

- iv. The facility must be bonded through the Alcohol, Tobacco Tax and Trade Bureau.

The project would include a condition of approval for the applicant to show proof to the Planning Services that the facility has been bonded through the Alcohol, Tobacco Tax and Trade Bureau.

- v. Building Permit (Building, Planning, Environmental Management).

The request for approval of a Special Use Permit does not include any development on the project site. The request for a micro-winery includes the use of the existing structures and equipment.

- vi. Verification of one acre vineyard, properly maintained (Agricultural Department)

The County Agricultural Department has approved the use of the project site as a micro-winery as discussed in this staff report.

- f. **Production Capacity.** The capacity of the micro-winery shall not exceed 250 cases (595 gallons) for each acre of wine grapes grown on the lot with a total capacity not to exceed 1,250 cases (2,972 gallons).

The 12.54-acre project site includes one-acre of a productive five year old vineyard which contains 450 vines. A condition of approval would be required to allow the capacity of the micro winery to exceed 250 cases (595 gallons) provided the appropriate number of additional grape vines are in production on the project site with the capacity not to exceed 1,250 cases (2,972 gallons), and upon recommendation of the County Agricultural Department, which is permitted by right, and in compliance with **Section 17.14.200 (D) (10) (f)** of the Zoning Code.

- g. **Signs.** Micro-winery sights are limited to one on-site unlighted sign, six square feet in area, six feet in height, advertising the name of the winery and owner. The sign must also state “not open to the public.”

No sign has been proposed with the Special Use Permit. A condition of approval would be required to allow for placement of one on-site sign which would be required to conform to **Section 17.14.200 (D) (10) (g)**.

- h. Micro-winery Size.** Maximum enclosed square footage (all Floors) of the winery shall be 2,000 square feet.

All operational activities including grape crushing, fermentation, and bottling would occur in and around the existing 432 square foot wine cellar and adjacent 280 square foot concrete crush pad. The wine cellar and crush pad would house the necessary wine making equipment including barrels, tanks, and bottling equipment.

Section 17.70.070 states that the purpose of the RE-10 Zone 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 following code sections would permit the proposed use with a Special Use Permit:

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

Water and Sewer: Water service for the proposed project would be provided by individual water wells. 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-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.

Agency Comments:

County of El Dorado Agricultural Commission: The Agricultural Commission recommendation as shown in the February 11, 2009, Agricultural Commission Memorandum (Exhibit F) is discussed in the General Plan section of this staff report.

El Dorado Environmental Health: Environmental Health expressed concern regarding discharge of winery wastes that could effect the waters of the State of California. 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 \$50.⁰⁰ 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 Map
Exhibit D	Site Plan
Exhibit E	Assessor's Map
Exhibit F	Agricultural Commission Memorandum, dated February 19, 2009
Exhibit G	Residence – 2,496 square feet
Exhibit H	Residence – 1,260 square feet
Exhibit I	Tool Shed – 120 square feet
Exhibit J1 & J2	Cellar/Office – 432 square feet
Exhibit K	Crush Pad – 280 square feet
Exhibit L	Vineyard

ATTACHMENT 1

CONDITIONS OF APPROVAL

File Number S08-0026 – Chateau Davell Winery
April 23, 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 L, dated April 23, 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 12.54-acres, consisting of two single-family residences, tool shed, horse shed, orchard, one acre of existing vineyards and an existing 432 square foot wine cellar and adjacent 280 square foot concrete crush pad for a micro winery. The wine would be made available through wholesale sales and for personal consumption. There would be no on-site sales, public tasting room or public access with the facility.

All operational activities including grape crushing, fermentation, and bottling will occur in and around the existing 432 square foot wine cellar and adjacent 280 square foot concrete crush pad. The wine cellar and crush pad building will house the necessary wine making equipment including barrels, tanks, and bottling equipment. All operations, including harvesting, will be carried out by individuals residing on the premises only. The wine produced at the facility will consist of 250 cases per year produced entirely with grapes grown on the premises. No wine grapes will be imported.

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

2. No public events, such as wine tasting, weddings, concerts, winemaker dinners and festivals shall be permitted under this Special Use Permit.
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.
6. One unlighted sign, with a maximum of six square feet in area, six feet in height, advertising the name of the winery and owner including the words “not open to the public” shall be permitted by right, in compliance with **Section 17.14.200 (D) (10) (g)** of the Zoning Code.
7. The capacity of the micro winery may exceed 250 cases (595 gallons) provided the appropriate number of additional grape vines are in production on the project site with the capacity not to exceed 1,250 cases (2,972 gallons), and upon recommendation of the County Agricultural Department, and in compliance with **Section 17.14.200 (D) (10) (f)** of the Zoning Code.
8. Prior to commencement of any use authorized by this permit, the applicant shall provide a copy of the Winegrower License obtained from the Alcoholic Beverage Control to Planning Services.
9. Prior to commencement of any use authorized by this permit, the applicant shall provide proof to Planning Services that the facility has been bonded through the Alcohol, Tobacco Tax and Trade Bureau.

Environmental Health

10. 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 application of the Waiver of Waste Discharge shall be received by Environmental Health Division prior to initiating the use.

11. Prior to commencement of any use authorized by this permit, the applicant shall be responsible for meeting all appropriate fire and building codes and shall obtain sign offs from appropriate agencies.

ATTACHMENT 2

FINDINGS

File Number S 08-0026
April 23, 2009 Planning Commission Hearing

1.0 CEQA Findings

- 1.1 This project has been found to Categorically 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 2.2.1.2** which provides for an appropriate range of land use types and densities within the County; **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-based business, **Policy 8.1.3.5** requires 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; **Policy 8.1.4.1** assures these home-based business 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 micro-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 limitation placed on an approval for a micro-winery as discussed in the Zoning Section of this staff report, 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 432 square foot wine cellar and adjacent 280 square foot concrete crush pad 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 17.14.200 (D) (10)** which states that micro-winerries shall be permitted by a condition use permit in the RE Zone Districts subject to the provisions provided in **Section 17.14.200 (D) (10) (a-h)** as discussed in Zoning Section of this staff report.