

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



Agenda of: September 9, 2010
Item No.: 8.a
Staff: Aaron Mount

SPECIAL USE PERMIT

FILE NUMBER: S09-0024/Petra Winery

APPLICANT: Mark Annis

REQUEST: Special use permit request to allow a wine production facility with no on-site sales.

LOCATION: On the east side of Deer Valley Road, approximately 0.5 mile northeast of the intersection with Green Valley Road, in the Rescue area, Supervisorial District IV. (Exhibit A)

APN: 102-210-16

ACREAGE: 10.01 acres

GENERAL PLAN: Rural Residential (RR) (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: Staff recommends that the Planning Commission take the following actions:

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 S09-0024 subject to the Conditions of Approval in Attachment 1, based on the Findings in Attachment 2.

STAFF ANALYSIS

Staff has reviewed the project for compliance with County regulations and requirements. An analysis of the permit request and issues for the Zoning Administrator to consideration are provided in the following sections.

Project Description: Special Use Permit (SUP) request to authorize the use of an existing single family dwelling and outside area as a wine production facility. The wine would be made available through wholesale, off-site sales, and for personal consumption. There would be no on-site sales, public tasting room, or public access to the facility. All operational activities including grape crushing, fermentation, and bottling would occur in and around the existing basement of a single family residence and adjacent concrete crush pad. The basement 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, the applicant’s family, and vineyard maintenance workers.

As discussed in the General Plan section of this staff report, the Agricultural Commission had concerns about the winery operation and its potential impact on adjacent residential uses. The Agricultural Commission has recommended conditions which will limit production based on the location of the production on the project parcel. The applicant has agreed to the Agricultural Commission’s conditions of approval.

Site Description: The project parcel is at an average elevation of 1,100 feet above mean sea level in the Rescue area. The ten acre parcel contains more than five acres of vineyards. Improvements include a 1,496 square foot single family residence, an approximately 768 square foot barn adjacent to the residence, and an approximately 1,875 square foot barn at the eastern end of the property. A driveway circles the perimeter of the parcel and a spring fed pond is located at the southern end of the project site.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	RE-10	RR	Residential/Single family residences
North	RE-10	RR	Residential/Single family residences
South	RE-10	RR	Residential/Single family residences
East	RE-10	RR	Residential/Single family residences
West	RE-10	RR	Residential/Single family residences

Land Use Compatibility: As discussed above, the subject site is surrounded by residential and agricultural land uses. Potential land compatibility issues such as access and noise are discussed in greater detail below. Staff believes the proposed project is compatible within the context of the

surrounding land uses pursuant to General Plan Policy 2.2.5.21 based on compliance with the recommended conditions of approval in Attachment 1.

Access: Site access would be provided via Deer Valley Road, a County maintained road. The applicant has been conditioned by the Department of Transportation to improve the existing encroachment to current standards. Site access is adequate for the proposed use that would be allowed by this Special Use Permit.

Environmental Management Department: Air Quality Management District and Hazardous Materials comments are addressed as standard conditions of approval identified within Attachment 1. The applicant would be required to file a declaration of small water system status with the Environmental Health Division, as required. No other issues or concerns were reported by the Environmental Health Division.

Fire Protection: The Rescue Fire Protection District reviewed the proposed project and would require a water supply, fire district access through the existing gate, and access road width and turnaround. Fire issues are addressed within the project's conditions of approval.

General Plan:

The General Plan designates the subject site as Rural Residential. This designation establishes areas for residential and agricultural uses. Additionally, the following General Plan policies also apply to this project:

Policy 2.2.5.21 *directs that new development be compatible with the surrounding land uses.*

Discussion: As conditioned, the SUP application would be consistent with the surrounding residential land uses. As discussed under Policy 8.1.4.1 the project would receive reduced setbacks but limitations have been imposed on wine production based on location in order to reduce the chance of land use conflicts.

Policy 6.2.3.2 *directs that the applicant demonstrate that adequate access exists, or can be provided to ensure that emergency vehicles can access the site and private vehicles can evacuate the area.*

Discussion: As conditioned and discussed above, the Rescue Fire Protection District supports the SUP application. Existing site access is consistent with Policy 6.2.3.2.

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. Before granting approval, a determination shall be made by the approving authority that the proposed use:*

- A. *Will not intensify existing conflicts or add new conflicts between adjacent residential areas and agricultural activities; and*

- B. *Will not create an island effect wherein agricultural lands located between the project site and other non-agricultural lands will be negatively affected; and*
- C. *Will not significantly reduce or destroy the buffering effect of existing large parcel sizes adjacent to agricultural lands.*

Discussion: As outlined in Exhibit I and J, the Agricultural Commission reviewed the request and determined that it is consistent with Policy 8.1.4.1 as the above findings can be made. As such, the Agricultural Commission recommended approval of the proposal at its meetings of February 10, 2010 and April 14, 2010. It was determined at the first Agricultural Commission hearing that a setback reduction would need to be requested as the residence was not 200 feet from the property line as required by section 17.14.200.E.2.b of the County ordinance. At the subsequent hearing a setback reduction was recommended for approval allowing wine production to take place in the basement and adjacent areas of the single family residence. The setback reductions are as follows: 50 feet from the southwest property line, 100 feet from the northwest property line, and 140 feet from the north property line. A maximum limit of 2,500 cases of wine produced would be applied to this location. The applicant has the option to relocate the wine production to a barn on the eastern portion of the subject parcel with no limitation on case production. A setback reduction to 130 feet from the north property line has been recommended by the Agricultural Commission.

Both options are reflected in the Conditions of Approval and Findings.

Policy 10.1.6.1 *directs that the County shall encourage expansion of the types of local industries that promote tourism including but not limited to Christmas tree farms, wineries, outdoor sports facilities, Apple Hill and other agricultural-related activities, the County Fairground, bed and breakfast inns, and ranch marketing activities.*

Discussion: Approval of the requested SUP would be consistent with Policy 10.1.6.1 because the new wine production facility would promote continued tourism within the County.

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

Zoning

The proposed use is permitted by special use permit pursuant to Section 17.14.200.B.2.h. of the Winery Ordinance as the project parcel is in the RE-10 zone district, contains a minimum of 10 acres, has a minimum of five acres of commercial vineyard, and is not located within a General Plan Agricultural District. Additionally the RE-10 zone district, Section 17.70.100.A, requires a Special Use Permit 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. In order to approve the use, the Planning Commission must find that the use is consistent with the General Plan and would not be detrimental to the public health, safety and welfare nor injurious to the neighborhood. Based on staff analysis and comments received from affected public agencies, staff

recommends the Planning Commission find that the project would not be detrimental to the public health, safety and welfare and would not be injurious to the neighborhood. Findings for conditional approval are provided in Attachment 2.

ENVIRONMENTAL REVIEW

This project has been found to be 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. A \$50.⁰⁰ processing fee is required by the County Recorder to file the Notice of Exemption.

SUPPORT INFORMATION

Attachments:

Attachment 1	Conditions of Approval
Attachment 2	Findings
Exhibit A	Location Map
Exhibit B	Assessor's Parcel Map
Exhibit C	General Plan Land Use Map
Exhibit D	Zoning Map
Exhibit E	Site Plan
Exhibit F	Ag Commission memo dated February 18, 2010
Exhibit G	Ag Commission memo dated April 29, 2010
Exhibit H	Airphoto of Project Parcel

ATTACHMENT 1

CONDITIONS OF APPROVAL

**Special Use Permit S09-0024/Petra Winery
Planning Commission/September 9, 2010**

El Dorado County Planning Services

I. PROJECT DESCRIPTION

1. This Special Use Permit is based upon and limited to compliance with the project description, hearing exhibits marked Exhibit E through H, 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 authorizes the use of a 1,496 square foot single family residence for production of wine. Wine production is to take place in the basement of the single family residence and the adjacent concrete pad with a maximum limit of 2,500 cases of wine produced per year. If wine production is moved to the approximately 1,878 square foot barn at the eastern end of the subject parcel, there shall be no limitation on case production.

The approximately 768 square foot barn adjacent to the single family residence shall not be used for wine production but can be used for storage of materials related to the winery.

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

II. PROJECT CONDITIONS OF APPROVAL

2. No public events, such as wine tasting, weddings, concerts, winemakers dinners and festivals shall be permitted under this Special Use Permit.

3. Developer shall defend, indemnify and hold harmless the County or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of the Special Use Permit. In the event that the County fails promptly to notify the applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.
4. Prior to issuance of any permits, the applicant shall pay all Development Service fees.
5. Prior to building permit issuance, the applicant shall provide a written description, together with appropriate documentation, demonstrating conformance of the project with each condition imposed as part of the project approval. The applicant shall also schedule an inspection by Planning Services permit center staff prior to final occupancy for verification of compliance with applicable conditions of approval.
6. Pursuant to County Code Section 17.22.250, implementation of the project must occur within twenty-four (24) months of approval of this 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.

Air Quality Management District

7. During construction, all activities shall apply standard Best Management Practices (BMPs) to control dust during construction. These practices shall be incorporated into the project and include:
 - a. Application of water on disturbed soils and unpaved roadways a minimum of three times per day
 - b. Using track-out prevention devices at construction site access points
 - c. Stabilizing construction area exit points
 - d. Covering haul vehicles
 - e. Restricting vehicle speeds on unpaved roads to 15 miles per hour
 - f. Replanting disturbed areas as soon as practical and other measures as deemed appropriate to the site, to control fugitive dust
8. Prior to grading permit issuance, a fugitive dust plan shall be submitted to the Air Quality Management District (AQMD) for review and approval.
9. Burning of vegetative wastes that result from "Land Development Clearing" must be permitted through the District Rule 300 Open Burning. Only vegetative waste materials are permitted to be disposed of using an open outdoor fire.
10. The applicant shall adhere to District Rule 224 Cutback and Emulsified Asphalt Paving Materials.

11. The project construction will involve the application of architectural coating which shall adhere to District Rule 215, Architectural Coating.
12. Prior to construction/installation of any new point source emission units or non-permitted emission units (i.e. gasoline dispensing facility, boilers, internal combustion engines, emergency generators, etc.), authority to construct applications shall be submitted to the District. Submittal of applications shall include facility diagram(s), equipment specifications, and emission factors.

Department of Transportation

13. Encroachment Permit: The applicant shall obtain an encroachment permit from DOT and shall construct the roadway encroachments from the project onto Deer Valley Road to the provisions of Design and Improvement Standard Manual (DISM) Standard Plan 103C. The improvements shall be completed to the satisfaction of the Department of Transportation or the applicant shall obtain an approved improvement agreement with security, prior to issuance of a special use permit.
14. Easements: All applicable existing and proposed easements shall be shown on the project plans.
15. Construction Hours: Construction activities shall be conducted in accordance with the County Health, Safety, and Noise Element and limited to the daylight hours between 7:00 a.m. and 7:00 p.m. on any weekday, and 8:00 a.m. and 5:00 p.m. on weekends and federal holidays.
16. DISM Consistency: The developer shall obtain approval of project improvement plans and cost estimates consistent with the Subdivision Design and Improvement Standards Manual from the County Department of Transportation, and pay all applicable fees prior to issuance of a building permit.
17. RCD Coordination: The timing of construction and method of revegetation shall be coordinated with the El Dorado County Resource Conservation District (RCD). If grading activities are not completed by September, the developer shall implement a temporary grading and erosion control plan. Such temporary plans shall be submitted to the RCD for review and recommendation to the Department of Transportation. The Department of Transportation or Development Services (whichever is applicable) shall approve or conditionally approve such plans and cause the developer to implement said plan on or before October 15.
18. TIM Fees: The applicant shall pay the traffic impact fees in effect at the time a building permit is deemed complete.

Rescue Fire Protection District

19. The applicant shall provide a priority “Knox” key switch for emergency access through the gate. Gates shall comply with the Fire Prevention Officer’s standard. Rescue Fire Protection District shall verify the installation of the security system prior to final inspection of the facility.
20. The applicant shall install a minimum 12-foot wide all weather access road with a vertical clearance of 13 feet 6 inches and any turn in the road shall have a minimum inside turning radius of 40 feet. The road shall be capable of supporting a 40,000 pound load and shall not exceed a road grade of 16 percent.
21. The applicant shall provide a Fire District approved turn-a-round within 50 feet of the project site. The existing driveway serving the existing dwelling may fail to comply with the turnaround provisions of the State Fire Safe Regulations. The applicant shall be conditioned to comply with the requirements for the State Fire Regulation and El Dorado County Design and Improvement Manual (DISM).
22. Additional information will be needed regarding the building sizes, commercial status and the use. This information will assist in our requirements for water supply, road, and building requirements. A water supply will be required for this project.
23. This project shall meet the requirements of the California SRA Fire Safe Regulations, and the California Fire Code 2007 Edition for access and water supply.

El Dorado County Environmental Management Department

24. If this farm/facility stores or will store reportable quantities of hazardous materials (55 gallons) or generate hazardous waste, prior to commencing operations the owner/operator must:
 - a. Prepare, submit, pay appropriate fees for and implement a hazardous materials business plan to the EDC Department of Agriculture. The EDC Department of Agriculture will in turn forward the HMBP to Environmental Management for review
 - b. Obtain a hazardous waste generator identification number from the California Department of Toxic Substances Control.
 - c. Train all employees to properly handle hazardous materials and wastes.
 - d. Implement proper hazardous materials and hazardous waste storage methods in accordance with the Uniform Fire Code and Uniform Building Code.

ATTACHMENT 2

FINDINGS

Special Use Permit S09-0024/Petra Winery Planning Commission/September 9, 2010

FINDINGS FOR APPROVAL

1.0 CEQA FINDINGS

- 1.1 The wine production facility is found to be Categorical Exempt from CEQA pursuant to Section 15303 of the CEQA Guidelines which exempts construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure from further environmental review.
- 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 As proposed, the project is consistent with the Rural Residential (RR) land use designation of the subject site as defined within General Plan Policy 2.2.1.2 because the RR land use designation is intended to provide areas for agriculture, such as the proposed winery.
- 2.2 As conditioned, the proposal is consistent with General Plan Policies 2.2.5.21, land use compatibility, 6.2.3.2, emergency access, 8.1.4.1, agricultural lands protection, and 10.1.6.1, tourism promotion. Because of the project's compatibility with surrounding land uses, emergency access, compatibility with agricultural lands, and tourism promotion, it is consistent with the General Plan policies identified above.

3.0 ZONING FINDINGS

- 3.1 The proposed use is permitted by special use permit in the Estate Residential Ten-Acre (RE-10) zone district, pursuant to Section 17.70.100.A and the Winery Ordinance, Section 17.14.200. The proposed wine production use is authorized under Section 17.14.200.B.2.h of the Winery Ordinance provided that the administrative findings outlined below can be made by the Planning Commission.
- 3.2 As proposed and conditioned, the project meets all applicable development standards contained within the El Dorado County Zoning Ordinance because adequate setbacks are

proposed. The reduced setbacks were determined sufficient due to exclusion of tasting room and special events.

4.0 ADMINISTRATIVE FINDINGS (SPECIAL USE PERMIT)

4.1 The issuance of the permit is consistent with the General Plan.

As discussed above, the proposal is consistent with the following applicable General Plan Policies 2.2.5.21, land use compatibility, 5.2.1.2, water quality, 6.2.3.2, emergency access, 8.1.4.1, agricultural lands protection, and 10.1.6.1, tourism promotion.

4.2 The proposed use would not be detrimental to the public health, safety and welfare, or injurious to the neighborhood; and

The proposed use will not be detrimental to the public health, safety and welfare or injurious to the neighborhood as it is found to be a compatible use within the context of the surrounding mix of residential and agricultural uses adjacent to the subject site. Potential land compatibility issues such as access and noise will be addressed through compliance with the conditions of approval in Attachment 1.

The Agricultural Commission recommended setback reductions as follows with limitations in wine production to reduce land use conflicts: The setback reductions for wine production in the single family residence: 50 feet from the southwest property line, 100 feet from the northwest property line, and 140 feet from the north property line. A maximum limit of 2,500 cases of wine produced would be applied to this location. The applicant has the option to relocate the wine production to a barn on the eastern portion of the subject parcel with no limitation on case production. A setback reduction to 130 feet from the north property line was recommended by the Agricultural Commission for this structure.

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

The proposed use is specifically permitted by special use permit pursuant to Section 17.14.200.B.2.h of the El Dorado County Zoning Ordinance as the required findings detailed above may be made by the Planning Commission.