

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



Agenda of: July 18, 2007
Item No.: 5.d.
Staff: Thomas A. Lloyd

SPECIAL USE PERMIT

FILE NUMBER: S 07-0009 / Murphy Home Occupation Winery

APPLICANT: James K. Murphy

REQUEST: Special use permit request to allow the use of approximately 900 square of an existing garage for a home based wine making operation. Wine would be limited to a maximum of 250 cases per year sold through internet sales and wholesale distribution, and produced entirely with grapes from an existing three acre vineyard.

LOCATION: On the south side of Gallagher Road, 1,500 feet west of the intersection Salmon Falls Road in the Pilot Hill area, Supervisorial District IV.

APN: 104-220-07

ACREAGE: 10 acres

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

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

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

SUMMARY RECOMMENDATION: Conditional Approval

BACKGROUND: The existing vineyard has produced grapes for approximately six years. The owners have purchased oak wine barrels, fermenting tanks and other wine making equipment, all of which are located in the garage.

STAFF ANALYSIS

Project Description: The applicant is proposing the operation of a winery as an expanded home occupation. There would not be a tasting room or tasting area. All operational activities including grape crushing, fermentation, and bottling would occur in and around the existing garage. This garage area houses the necessary wine making equipment including: barrels, tanks, and bottling equipment (Exhibit F). The wine produced at the facility would be available through wholesale and internet sales only, and would be produced entirely with grapes grown on the premises. No special events would be conducted on site, as the winery would not be open to the public.

Site Description: The parcel is 10 acres, contains a small organic vineyard with approximately 2.5 acres of planted grapevines and is surrounded by deer fencing. The vineyard is trellised and has drip irrigation. Water for the irrigation is supplied by an on-site well. Improvements include a residential home of 4,084 square feet, part of which is an attached garage.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	RE-10	RR/IBC	Single family Dwelling
North	RE-10	RR/IBC	Single Family Dwelling
South	RA-20/AE	RR/IBC	Single Family Dwelling
East	RE-10	RR/IBC	Single Family Dwelling
West	RE-10	RR/IBC	Single Family Dwelling

General Plan: The General Plan designates the subject site as Rural Residential (RR). RR permits single family residential development in a rural setting and establishes areas for residential and agricultural development. Additionally, it is located within an Important Biological Corridor (IBC) Overlay. This overlay was applied to lands identified as having high wildlife habitat values, and provides that special considerations should be given to retaining oak tree canopy, other tree and shrub corridors, and setbacks from wetlands.

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** which provides that development projects shall be located and designed in a manner that avoids incompatibility with adjoining land uses. **Objective 10.1.7** seeks to promote the establishment and expansion of small businesses and work place alternatives including home occupations. Additionally, **Policy 10.1.7.2** directs the County to assist small business within the County. Finally, **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. As the nearest neighbor is approximately 300 feet away, harvest is limited to a few days a year, sounds and smells are negligible, and there will be no employees beyond the occupants, the use would not be detrimental

to the neighborhood. 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 properties.

Zoning: The Zoning Ordinance identifies the property as Estate Residential 10-Acre. 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 would 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)*. To approve the use, the approving authority 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 comments received from public agencies, as discussed below, staff finds that the project would not be detrimental to the public health, safety and welfare and not injurious to the neighborhood, as described in the findings contained in Attachment 2.

Agency and Public Comments:

As this special use permit request contains an agricultural element, it was referred to the El Dorado County Agricultural Commission for review. On April 11, 2007, the Agricultural Commission unanimously voted to recommend approval of the proposed request for an expanded home occupation winery producing a maximum of 250 cases per year.

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

ENVIRONMENTAL REVIEW

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. Pursuant to Resolution No. 240-93, a \$50.⁰⁰ processing fee is required by the County Recorder to file the Notice of Exemption.

RECOMMENDATION

1. Certify that the project is Categorically Exempt from CEQA pursuant to *Section 15303(e)* of the *CEQA Guidelines*; and
2. Approve the Special Use Permit S 07-0009 subject to the conditions in Attachment 1, based on the findings in Attachment 2.

SUPPORT INFORMATION

Attachments to Staff Report:

- Attachment 1Conditions of Approval
- Attachment 2.....Findings

- Exhibit AVicinity Map
- Exhibit BGeneral Plan Land Use Map
- Exhibit CZoning Map
- Exhibit DSite Plan
- Exhibit EAssessor’s Map
- Exhibit F.....Garage photos

ATTACHMENT 1

CONDITIONS OF APPROVAL

File Number S 07-0009 – Murphy Winery
July 18, 2007 Zoning Administrator Hearing

CONDITIONS OF APPROVAL

El Dorado County Planning Services

1. This special use permit approval is based upon and limited to compliance with the project description, dated July 18, 2007, 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:

Special use permit request to allow the use of approximately 900 square feet of an existing garage for a home based wine making operation. Wine would be limited to a maximum of 250 cases per year sold through internet sales and wholesale distribution, and produced entirely with grapes from an existing three acre vineyard.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking 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 must be submitted for review and approval and shall be implemented as approved by the County.

2. Any wine tasting activities shall be by appointment only and shall be limited to no more than four (4) distributors and wine wholesalers at any given time. Tasting shall be limited to the hours of 8 a.m. to 6 p.m. Wine tasting shall not be permitted by the general public.
3. No special events, e.g. weddings, concerts, winemaker dinners, festivals, etc., shall be allowed on the property.
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 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 County harmless from any legal fees or costs County may incur as a result of such action, as provided in *Section 66474.9(b)* of the California Government Code.

The applicant 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 subdivision, which action is brought within the time period provided for in *Section 66499.37*.

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

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

Environmental Health

7. 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.
8. Prior to initiating the use, 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 as fertilizer or soil amendment, provided that such use or other disposal shall occur in accordance with applicable disposal requirements.

El Dorado County fire Protection District

9. Fire flow for this project shall be 1,000 gallons per minute (gpm) @ 20 pounds per square inch (psi) for two hours.
10. An additional hydrant would be required within 500 feet of the property line.
11. The applicant shall provide documentation from the Georgetown Divide Public Utility District (GDPUD) to show that the system would meet the fire flow requirements for this project.

12. In place of requirements 10 and 11 above, the applicant may choose El Dorado County approved water storage; with a minimum of 3,000 gallons of water within 150 feet of the residence.
13. Prior to initiation of the use, the applicant shall obtain an inspection and an approval from the El Dorado County Fire District.

ATTACHMENT 2

FINDINGS

File Number S 07-0009

July 18, 2007 Zoning Administrator Hearing

1.0 CEQA Finding

- 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 the 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 would 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 would promote a home-based business and would be compatible with surrounding properties.

- 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 would not be detrimental to the public health, safety and welfare. Furthermore, the processing and storage

of wine within the existing single-family dwelling would 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 would 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)*.