

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



**Agenda of:** August 1, 2007  
**Item No.:** 5. a.  
**Staff:** Aaron Mount

**SPECIAL USE PERMIT**

**FILE NUMBER:** S07-0003 - Mais Fica Winery

**APPLICANT:** Martin and Eileen Blair

**REQUEST:** Special use permit to allow home occupation winery, located within a 727 square foot attached garage, proposing a maximum of 250 cases of wine a year, from an existing 2.5 acre vineyard, sold off-site through internet sales and wholesale distribution.

**LOCATION:** South side of Kincade Drive, approximately 0.5 mile south of the intersection with Pleasant Valley Road in the Pleasant Valley area, Supervisorial District II. (Exhibit A)

**APN:** 099-180-10

**ACREAGE:** 10.10 acres

**GENERAL PLAN:** Rural Residential-Agricultural (RR-A) (Exhibit B)

**ZONING:** Estate Residential Ten-acre (Exhibit C)

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

**SUMMARY RECOMMENDATION:** Conditional Approval

**STAFF ANALYSIS**

**Project Description:** The applicants are proposing to operate a winery as an expanded home occupation as provided by *Section 17.70.100 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". *Section 17.70.100.G* requires home occupations not listed in subsection C of *Section*

17.70.090 to obtain a special use permit. No tasting room or on-site sales are proposed. 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 an existing 727 square foot garage attached to a 3827 square foot single family residence. The operational activities include crushing grapes and producing and bottling wine in the existing attached garage and on the driveway outside of the garage. All wine produced will be stored in the garage and permits have been obtained for climate control. The applicants are requesting the proposed output of wine grape products to be 250 cases annually. Currently the applicants are producing 200 gallons for personal consumption. All operations will be carried out by the parcel owners and family members. There will be no employees. The existing 2.5 acre vineyard, currently containing 2,000 producing vines, on the subject site will be the sole source of grapes. Current grape production is eight tons and no off-site grapes will be processed or used for blending.

Solid waste will be stored and disposed of in accordance with *Chapter 8.42* of the *County Code*. The leaves, stems, and pomace will be composted on-site. The size of the proposed wine grape production facility and its associated discharge is a small enough quantity 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 parcel is at an average elevation of 2,600 feet above mean sea level on a north facing slope of Pleasant Valley. The subject site contains a 3,827 square-foot single-family residence with a 727 square foot attached garage. A three (3) year old vineyard contains 2,000 vines of Grenache and Mourvedre planted on approximately 2.5 acres. Access is provided by Kincade Drive which is a paved road of adequate width that encroaches onto Pleasant Valley Road. Vegetation is dominated by native oaks, annual grasses, the vineyard, and introduced landscaping plants.

**Adjacent Land Uses:**

	<b>Zoning</b>	<b>General Plan</b>	<b>Land Use/Improvements</b>
<b>Site</b>	RE-10	RR-A	Single Family Residence
<b>North</b>	RE-5	RR-A	Single Family Residences
<b>South</b>	RE-10	RR-A	Single Family Residence
<b>East</b>	RE-5	RR-A	Undeveloped
<b>West</b>	RE-10	RR-A	Single Family Residence

**Discussion:** All parcels are within the Pleasant Valley Agricultural District.

**General Plan:** The General Plan designates the subject site as Rural Residential. This designation permits residential and agricultural uses. The subject site is within the Pleasant Valley Agricultural

District overlay. The purpose of the Agricultural District (-A) overlay designation is to identify the general areas which contain the majority of the County's federally designated prime, State designated unique or important, or County designated locally important soils (collectively referred to as "choice" agricultural soils) and which the Board of Supervisors has determined should be preserved primarily for agricultural uses. **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 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 Agricultural Commission reviewed the subject request at their March 14, 2007, meeting and recommended approval based on the applicant's proposal being consistent with the maximum limit of 250 cases, off-site sales, and no employees as an expanded home occupation located within 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 fermentation will be conducted predominately within the existing structure, except for crushing which will be done outside.

**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 Estate Residential Five-acre (RE-5) and Estate Residential Ten-acre (RE-10) zoned 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 parcel is in an Agricultural District and is adjacent to Low Density Residential, which allows accessory agricultural uses, and the Agricultural Lands land use designation. The proposed special use permit is compatible with the site's land use designation as well as adjoining designations as it is an accessory agricultural use and as conditioned will not impact the residential uses and will compliment the agricultural 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 is consistent with the General Plan. Findings of consistency with the General Plan are provided in Attachment 2.

**Zoning:** *Section 17.70.070* describes 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 to 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 17.70.090.C*, and therefore requires a special use permit. The following code sections would permit the proposed use with a special use permit: *Section 17.70.100 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 17.70.100.G* requires that home occupations not listed in subsection *C* of *Section 17.70.090* 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.

In order 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, staff finds that the project would not be detrimental to the public health, safety, and welfare and would not be injurious to the neighborhood, as described in findings contained in Attachment 2.

**Public Comments:** Multiple phone calls and letters were received from neighbors concerned that the applicants may be proposing a full commercial winery and that the project may not be consistent with the subject parcel's CC&Rs.

Due to parcel size, zoning, and acreage of grape vines, the subject parcel would not qualify for the by right development and uses granted by the Winery Ordinance. As proposed, the project would not allow on-site sales, a tasting room, or employees. The applicants currently produce wine for personal consumption only. Any future requests to amend the proposed conditions would require a revision to the special use permit and notification of the hearing.

Many comments addressed concerns that the proposed project was not consistent with the Hines Ranch Homeowners Association's CC&Rs. The applicant submitted a copy of an amendment to the CC&Rs recorded on November 21, 1980, in *Book 1981, Page 21*. It states "horticultural products may be grown on said property and those products may be stored and processed for commercial purposes, providing that such products are marketed at a location outside of the Subdivision". While it appears the applicant's proposal is consistent with the subject parcel's CC&R's, the County assumes no responsibility for verifying the owner's compliance, nor does the County assume any responsibility for enforcement of any private deed restrictions.

**Agency Comments:**

El Dorado County Department of Environmental Management's comments are reflected in Conditions 6 and 7 requiring a waste discharge permit and a solid waste disposal plan.

## **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* 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 \$50.00 processing fee is required by the County Recorder to file the Notice of Exemption.

## **RECOMMENDATION**

Staff recommends the Zoning Administrator take the following actions:

1. Certify that the project is Categorical Exempt from CEQA pursuant to *Section 15303(e)* of the *CEQA Guidelines*; and
2. Approve the special use permit S07-0003 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

# ATTACHMENT 1

## CONDITIONS OF APPROVAL

File Number S07 – 0003 – Mais Fica Winery/Blair  
August 1, 2007 Zoning Administrator Hearing

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

1. This Special Use Permit is based upon and limited to compliance with the project description, the Zoning Administrator hearing exhibits marked Exhibit D, 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, in a 727 square foot garage, as an expanded home occupation. No tasting room or tasting area is proposed, and the maximum amount of wine permitted per year will be 250 cases per year. All wine is to be stored in the garage. There will be no employees and all operations will be carried out by the parcel owners and family members. All sales are to occur off-site via internet, telephone, or mail, and in accordance with applicable licensing requirements. All grapes shall be from the on-site vineyard and no off-site grapes or wine shall be processed or blended. The production facility or any portion of the subject parcel related to wine making will not be open to the public.

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.

2. 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.

3. The applicant shall make the actual and full payment of planning processing fees for the Special Use Permit application prior to commencement of any use authorized by this permit.
4. Special events, e.g. weddings, concerts, festivals, etc., and wine tasting shall be prohibited.
5. 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.

### **El Dorado County Environmental Management**

6. 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.
7. 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.

## **ATTACHMENT 2** **FINDINGS**

File Number S07 – 0003 – Mais Fica Winery/Blair  
August 1, 2007 Zoning Administrator Hearing

### **1.0 CEQA Findings**

- 1.1 El Dorado County has determined that the project is exempt from the requirements of CEQA pursuant to *Section 15303(e)* of the *CEQA Guidelines* which exempts conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure, including garages.
- 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 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 the project as proposed is consistent with General Plan Policies 2.2.5.2, 8.1.4.1, 10.1.7.2, and 10.1.7.4 because of the review for General Plan consistency, review of the proposal by the Agricultural Commissioners, and approval of the expansion of a home based business.
- 2.2 As proposed, the project is consistent with the Rural Residential land use designation because accessory agricultural uses are compatible as a home occupation.

### **3.0 Special Use Permit Findings**

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

This project meets the intent of the General Plan because the proposed agricultural operation supports the intent of the uses allowed within the Rural Residential land use designation and the Agricultural District overlay.

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

The use will not conflict with the adjacent uses as it will be contained, for the most part, within an existing garage. 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 Kincade Drive, will not have a detrimental affect nor be injurious to



the neighborhood. The wine processing area and garage are 500 feet from the closest residence.

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

The proposed expanded home occupation is located within the Residential Estate Ten-acre (RE-10) Zone District which allows a winery as an expanded home occupation through the issuance of a special use permit pursuant to *Section 17.70.100.A* and *17.70.100.G* of the *El Dorado County Zoning Ordinance*.