

**COUNTY OF EL DORADO
PLANNING AND BUILDING DEPARTMENT
PLANNING COMMISSION
STAFF REPORT**



Agenda of: July 24, 2025

Staff: Evan Mattes

CONDITIONAL USE PERMIT

FILE NUMBER: CUP22-0013/Black Oak Mountain Winery

APPLICANT/AGENT: Curtis Van Winkle

REQUEST: Conditional Use Permit to allow up to 165 Special Events per year.

LOCATION: South side of State Highway 193, approximately 0.25 mile east of the intersection with Brush N Rocks Lane, in the Cool area (Exhibits A and B).

SUPERVISOR DISTRICT: 4

APN: 074-042-002 (Exhibit C)

ACREAGE: 146.52 acres

GENERAL PLAN LAND USE DESIGNATION: Rural Residential (RR) (Exhibit D)

ZONING DESIGNATION: Planned Agricultural 20-Acres (PA-20) (Exhibit E)

ENVIRONMENTAL DOCUMENT: Three action options are presented to the Planning Commission. One would require further environmental research, and two options would find the project exempt from the requirement for the preparation of environmental documents according to California Environmental Quality Act (CEQA) Guidelines. Categorical Exemptions apply to classes of projects that have been determined to not have a significant effect on the environment (Section 15300). A project may otherwise be determined exempt by state statute (Section 15260 - 15285).

RECOMMENDATION: Staff recommends the Planning Commission take one of the following actions:

- A. 1. Direct staff to prepare a Negative Declaration based on an Initial Study prepared by staff; or
- B. 1. Find the project Categorically Exempt under Section 15301 of the CEQA Guidelines (Exhibit L); and
2. Approve Conditional Use Permit CUP22-0013 based on Findings to be made by the Planning Commission and subject to the Conditions of Approval as presented; or
- C. 1. Find the project Statutorily Exempt under Section 15270 of the CEQA Guidelines (Exhibit L); and
2. Deny Conditional Use Permit CUP22-0013.

EXECUTIVE SUMMARY

The project applicant proposes a Conditional Use Permit (CUP) to allow for 165 special events per year. Of the requested special events, six (6) special events of up to 150 persons would contain outdoor amplified sound, 94 special events of up to 150 persons would contain no outdoor amplified sound, and 65 special events of up to 40 persons would contain no outdoor amplified sound. The applicant identified that they plan on five (5) of the special events to be for charitable or nonprofit organizations. Planning staff is not making a recommendation on the project as further explained in the General Plan Consistency section. Appropriate Findings of Approval or Findings of Denial will be prepared for Planning Commission consideration after hearing testimony and deliberation on the project.

SITE DESCRIPTION

The proposed project would be located on an approximately 146.52-acre parcel in northwestern El Dorado County at 2480 State Highway 193, Cool, CA. The project location has large agricultural parcels to the north and south, with low density residential parcels to the east and west, and medium density properties to the northwest. The project site is characterized by rolling hills with mixed annual grassland and oak savannah. There is an existing 4,000-square-foot single-family residence with associated pool located at the top of a hill in the center of the property. A five-acre vineyard, verified by the Agricultural Department in 2023, is located at the northeastern portion of the property with an existing winery/venue building located directly south of the vineyard. The 3,590-square-foot winery/venue building consists primarily of open assembly area, with breakroom/tasting area, two (2) restrooms, a storage area and upper mezzanine, though not available to the general public. The winery/venue building was originally permitted as an agricultural structure (Building Permit 243008) in 2016 and was converted into an event venue (Building Permit 334381) in 2022. Accessible parking is located directly outside of the winery/venue building, with an additional 112 parking spaces being located within three (3) parking lots throughout the property. An additional agricultural structure is located in the eastern portion of the property.

PROJECT HISTORY

The project, Black Oak Mountain Winery, is a bonded winery with approximately five (5) acres of established vineyard. Special events, including weddings, were initially established under El Dorado County Zoning Ordinance (Zoning Ordinance) Section 130.40.400.E.3, Wineries. Prior to the January 8, 2025 Zoning Ordinance Update, wineries on lots zoned Planned Agricultural (PA), larger than 20 acres, were allowed 24 days of events per year, limited to 250 people. Special events in excess of 130.40.400.E.3 were allowable with the approval of a CUP.

On December 10, 2024 (Legistar File 24-1298), the Board of Supervisors approved updates to the Winery and Ranch Marketing Ordinance (OR23-0001) (Exhibit J). These changes include:

- The approval of an annual administrative permit to hold special events, which would be processed by the Agricultural Department, to reduce the special events authorized under the ranch marketing and winery ordinance to 12 per year.
- A process for which an operator of a ranch marketing area or winery owner can hold an additional two (2) special events per year, up to a maximum of 24 special events per year, for every confirmed additional five (5) acres of crop cultivated.

Black Oak Mountain Winery was issued an agricultural administrative permit (AG25-0001) on February 28, 2025. Pursuant to Section 130.40.400.J.4, if a winery owner has received three (3) substantiated violations or more occurring on three (3) separate dates within an 18-month period, then the County shall revoke any associated administrative permit that authorized the winery owner to hold special events, and that person will be ineligible to submit an application for an administrative permit to hold special events for six (6) months after the date of the last violation. On March 12, 2025, AG25-0001 was revoked, and the project site is currently not permitted to conduct special events. Code Enforcement staff will be available to discuss enforcement issues.

As of the date of the preparation of this Staff Report the subject parcel is not allowed special events. However, as the subject application was deemed complete on January 3, 2024, prior to the adoption of the current Winery Ordinance, they are vested under the Zoning Ordinance in effect at the time the project was deemed complete and are analyzed under that Ordinance (Exhibit I).

PROJECT DESCRIPTION

The project applicant is requesting a CUP for the expansion of allowed special events from a potential 12 to 165 per year. The special events are anticipated to primarily be comprised of weddings. There would be six (6) events up to 150 people with outdoor amplified sound, 94 events of up to 150 people with no outdoor amplified sound, 60 events of up to 40 people with no outdoor amplified sound, and five (5) special events for nonprofit or charitable organizations of up to 40 people without outdoor amplified sound. Events would primarily occur Thursday through Sunday, with occasional midweek events, and would be limited to March through November, with most events taking place between April and October. Two (2) outdoor use/ceremony sites are currently utilized. One (1) is located at the top of the main hill, within a small oak grove, above the existing single-unit residence. A small restroom has been permitted for guests to use at this location. The

second ceremony site is located to the southeast of the winery/venue building, past the overflow parking area. The outdoor veranda/pool area of the residence is available for cocktail hour, with receptions primarily occurring within the winery/venue building. The winery/venue structure has a maximum occupancy of 99 people. Of the 165 proposed events, 159 would need to be located either within the winery/venue structure or would require the use of headphones (i.e. silent disco). The proposed project would typically utilize offsite services to come onsite for events. Typical services include caterers, bartenders, and disc jockeys (DJs). All outdoor operations would stop, and all attendees would exit the property by 10 PM. Approval of the CUP would not permit overnight stays.

STAFF ANALYSIS

Site Access/Parking

The project property is accessed from a private driveway directly from State Highway 193. The private driveway continues for approximately 800 feet until it reaches the winery/venue building, where four (4) accessible parking stalls are located, with a 30-stall parking lot located to the north of the driveway, and a 45-stall overflow lot located south of the main driveway. From the winery/venue building the driveway turns southwest up the main hill towards the onsite residence. Another 37-stall parking area is located near the residence. Guests may be transported to the upper outdoor ceremony site by a shuttle.

Noise

An Environmental Noise Assessment (Exhibit H) was prepared by Saxelby Acoustics for this project. The assessment conducted simulated events utilizing amplified sound near the winery/venue building. Pursuant to Section 130.37.060.A.3.b, Noise Standards, noise level standards within Rural Regions are measured at a point 100 feet from a sensitive receptor, not at the property line. Sensitive receptors in the vicinity are primarily considered to be single-unit residences. The assessment concluded that the project would meet the noise standards established within the Zoning Ordinance, assuming recommended mitigation measures were followed. The assessment did not analyze amplified sound at either of the ceremony sites.

CONSISTENCY

General Plan Consistency

The project is located within the Rural Region with the General Plan designating the project site as RR (Exhibit D). As proposed, the project would be consistent with the standards established by the RR land use designation. Staff has prepared potential findings of consistency or inconsistency with the applicable policies and requirements of the El Dorado County General Plan, as discussed in Section 2.0 of the Potential Findings. As part of General Plan Consistency review, the Agricultural Commission held a hearing on the proposed CUP last December. The Agricultural Commission concurred that the proposed CUP, increasing the number of events in the amount requested, has the potential to increase conflicts between adjacent residential and agricultural activities. The applicant believes there was a misunderstanding in application of the policies, and that the project is consistent with the General Plan. Staff is not making a recommendation on the project as the Planning Commission will hear further explanation from the applicant and testimony

on the issue of General Plan Consistency, which should be considered in the decision making. The Agricultural Commission report documentation, and written comments are available here: <https://eldorado.legistar.com/LegislationDetail.aspx?ID=7043987&GUID=61520FBE-6D2E-471D-806C-630B7D43C01B&Options=&Search=>, and the record of the public hearing is available here: https://eldorado.granicus.com/player/clip/2248?view_id=2&redirect=true. These are part of the record on this hearing.

Zoning Ordinance Consistency

The proposed use is consistent with the PA-20 zone district as expansion of special events is allowed within the Winery Ordinance and the PA zone district with the approval of a CUP. The project has been analyzed in accordance with Zoning Ordinance Chapter 130.40, Wineries, for applicable development standards. Should CUP22-0013 be approved, the project would be consistent with the development standards of the PA zone district and Zoning Ordinance Chapter 130.40. Staff has prepared potential findings of consistency or inconsistency with the applicable policies and requirements of the Zoning Ordinance as discussed in Sections 3.0 and 4.0 of the Findings.

PUBLIC OUTREACH

Public Notification

Section 130.51.050.2, Public Notice Requirements and Procedures – Discretionary Projects, of the Zoning Ordinance establishes noticing procedures for discretionary projects. CUPs have a notification radius of 1,000 feet from the subject property, with notice published in the Mountain Democrat and the Georgetown Gazette. No formal public outreach was conducted as a public outreach plan is not required for CUPs pursuant to the Zoning Ordinance. No physical sign posting was required for this project.

ENVIRONMENTAL REVIEW

No CEQA Initial Study was prepared analyzing the potential impacts the project may have on the project site. Applicant takes the position that the proposed project will not result in an increase in activity on the parcel: “the proposed project does not increase the overall number of visitors, or the number or size of events, compared to what already occurs, and has historically occurred, at the property” (Exhibit K). It is generally acceptable for environmental review to look at the existing conditions on the site as the “baseline” or alternatively look to historic conditions, or when the project becomes operational, if supported by substantial evidence (14 CCR 15125(a)(1))(Ex. “CEQA Guideline Excerpts”). Environmental review does not generally examine whether existing activities may be contrary to rules or regulations. CEQA is not a vehicle for resolving violations, environmental documents are not “the appropriate forum for determining the nature and consequences of prior conduct of a project applicant.” Riverwatch v. County of San Diego (1999) 76 Cal. App. 4th 1428, 1452.

The applicant will speak to what they believe is the appropriate baseline of existing activities on the site. Specific to CEQA compliance, the applicant claims three (3) exemptions: Class I, “Existing Facilities” (15301); Class 23, “Normal Operations of Facilities for Public Gatherings” (15323); and the “Common Sense” exemption (15061(b)(3)).(Ex. “CEQA Guideline Excerpts”).

At this point in time, staff's position is that the exemptions are not applicable to the proposed project due to the exemption exceptions detailed in 14 CCR §15300.2(b)&(c). Under 15300.2, an exemption is not applicable if there is: 1) a significant cumulative impact of successive projects of the same type in the same place; or 2) where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. This is not an area of bright line guidance from the courts due to the variety of projects examined, claimed exemptions, and individual history of projects that have been reviewed and discussed.

As a preliminary matter, it is not clear if the proposed project is within Class 23 for "facilities for public operations". The Class 23 examples are facilities generally open to the public (racetracks, stadiums, convention centers, etc.) and not a facility that is rented out for events (such as weddings) which are not generally open to the public. Regardless, the analysis below applies to all three (3) claimed exemptions. Courts have found that proximity of the proposed use (even if existing) to potentially incompatible land uses, particularly residential, may render the exemption inapplicable. For example, in Lewis v. Seventeenth Dist. Agric. Ass'n (1985) 165 Cal. App. 3d 823, 829 the court examined a Class 23 exemption for an existing racetrack use and found it not applicable: "there is no question of the existence of unusual circumstances -- the adjacency of residential areas to the racetrack".

This has been an area of differing court decisions. In Bloom v. McGurk (1994) 26 Cal. App. 4th 1307, 1316, the court upheld a Class 1 exemption for an existing medical waste treatment facility finding that "the facility is in an area zoned for heavy industry, there are apparently no homes in the immediate vicinity, and IES's operations are comparable to those of surrounding businesses." Decisions on issues such as these are factually dependent. On the present record established through testimony and findings at the Agricultural Commission, staff believes that the location of the proposed project in proximity to the neighboring residential and agricultural uses does not support the application of a CEQA exemption.

It is up to the Planning Commission to hear and consider testimony on the proposed project and reach a conclusion on the claimed exemptions and potential exceptions thereto. A critical determination for your Planning Commission is whether any of the claimed exemptions are applicable and secondly, should the exception for cumulative activities or unusual circumstances apply. Should the Planning Commission believe the exemptions are not applicable, further environmental review would be required if the findings for approval of the CUP may be made.

Should your Planning Commission determine that the findings cannot be made for issuance of a CUP, there is a specific CEQA exemption applicable to project denial, 14 CCR §15270 (Ex L). This is detailed in potential recommendation C(1) and (2). A finding that a project is exempt from CEQA does not necessarily mean the project can meet the discrete findings necessary for granting a CUP. This is a separate consideration which examines consistency with the General Plan and whether the proposed project would be detrimental to the public health, safety and welfare, or injurious to the neighborhood.

Should your Planning Commission determine the findings supporting a CUP can be made, there are several options to resolve the CEQA issues: 1) The Planning Commission could find that the record and testimony support a finding that the project is exempt under one (1) or all the

exemptions claimed by the applicant and approve the project. This is detailed in potential recommendation B(1) and (2). The Commission could find that the project does not qualify for an exemption due to 14 CCR §15300.2 and request that the applicant complete appropriate environmental review. This is detailed in potential recommendation A(1), the Planning Commission could direct staff to prepare a Negative Declaration based on an Initial Study prepared by staff.

Should the project be approved and determined to be exempt from CEQA, the applicant may submit to Planning Division a \$50.00 recording fee prior to filing of the Notice of Exemption by the County. Please submit check for the total amount to Planning Division and make the check payable to El Dorado County.

SUPPORT INFORMATION

Attachments to Staff Report:

Findings

Conditions of Approval

Exhibits

Exhibit A.....	Location Map
Exhibit B.....	Aerial Map
Exhibit C.....	Assessor's Parcel Map
Exhibit D.....	General Plan Land Use Designation Map
Exhibit E.....	Zoning Designation Map
Exhibit F.....	Topographic Map
Exhibit G.....	Site Plan
Exhibit H.....	Environmental Noise Assessment
Exhibit I.....	Winery Ordinance Effective at Application Completeness
Exhibit J.....	Current Winery Ordinance
Exhibit K.....	Letter to El Dorado County re: CEQA
Exhibit L.....	CEQA Guideline Excerpts

CONDITIONS OF APPROVAL

Conditional Use Permit CUP22-0013/Black Oak Mountain Winery Planning Commission/July 24, 2025

1. This Conditional Use Permit (CUP) is based upon and limited to compliance with the project description, Conditions of Approval set forth below, and the hearing exhibits marked:

Exhibit G.....Site Plan

Exhibit H.....Environmental Noise Assessment

Any deviations from the project description, exhibits, or Conditions of Approval 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 would constitute a violation of permit approval.

The project description is as follows:

The project applicant is requesting a CUP for the expansion of allowed special events from a potential 12 to 165 per year. The special events are anticipated to primarily be comprised of weddings. There would be six (6) events up to 150 people with outdoor amplified sound, 94 events of up to 150 people with no outdoor amplified sound, 60 events of up to 40 people with no outdoor amplified sound, and five (5) special events for nonprofit or charitable organizations of up to 40 people without outdoor amplified sound. Events would primarily occur Thursday through Sunday, with occasional midweek events, and would be limited to March through November, with most events taking place between April and October. Two (2) outdoor use/ceremony sites are currently utilized. One (1) is located at the top of the main hill, within a small oak grove, above the existing single-unit residence. A small restroom has been permitted for guests to use at this location. The second ceremony site is located to the southeast of the winery/venue building, past the overflow parking area. The outdoor veranda/pool area of the residence is available for cocktail hour, with receptions primarily occurring within the winery/venue building. The winery/venue structure has a maximum occupancy of 99 people. Of the 165 proposed events, 159 would need to be located either within the winery/venue structure or would require the use of headphones (i.e. silent disco). The proposed project would typically utilize offsite services to come onsite for events. Typical services include caterers, bartenders, and disc jockeys (DJs). All outdoor operations would stop, and all attendees would exit the property by 10 PM. Approval of the CUP would not permit overnight stays.

The development, use, and maintenance of the property, the size, shape and the protection and preservation of resources shall conform to the project description and the hearing exhibits above 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.

Planning Division

2. **Permit Implementation:** In Compliance with Section 130.54.060, Time Limits, Extensions, and Permit Expiration, of the El Dorado County Zoning Ordinance (Zoning Ordinance), implementation of the project must occur within 24 months of approval of this CUP, or 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.
3. **Conditions Compliance:** Prior to issuance of a building permit or commencement of any use authorized by this permit, the applicant shall provide a written description, together with appropriate documentation, showing conformance of the project with each Condition imposed as part of the project approval.
4. **Payment of Processing Fees-Development Services:** The applicant shall make the actual and full payment of Planning and Building Department processing fees for the CUP and any associated fees.
5. **Heritage Resources:** In the event a heritage resource or other item of historical or archaeological interest is discovered during grading and construction activities, the project proponent shall ensure that all such activities cease within 50 feet of the discovery until an archaeologist can examine the find in place and determine its significance. If the find is determined to be significant and authenticated, the archaeologist shall determine the proper method(s) for handling the resource or item. Grading and construction activities may resume after the appropriate measures are taken or the site is determined not to be of significance.
6. **Archeological Resources:** In the event of the discovery of human remains, all work shall cease, and the County coroner shall be immediately notified pursuant to subdivision(c) of Section 7050.5 of the Health and Safety Code and Section 5097.98 of the Public Resources Code. The coroner shall make his or her determination within two (2) working days from the time the person responsible for the excavation, or in his or her authorized representative, notifies the coroner of the discovery or recognition of the human remains. If the coroner determines that the remains are not subject to his or her authority and if the coroner recognizes the human remains to be those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission. The Native American Heritage Commission will immediately notify the person it believes to be the most likely descendant of the deceased Native American.

Upon the discovery of the Native American remains, the landowner shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the Native American human remains are located, is not damaged or disturbed by further development activity until the landowner has discussed and conferred, as prescribed in Section 5097.98 of the Public Resources Code (PRC), with the most likely descendants regarding their recommendations. The descendants shall complete their

inspection and make their recommendations or preferences for treatment within 48 hours of being granted access to the site. The descendants' preferences for treatment may include the nondestructive removal and analysis of human remains and items associated with Native American burials or other culturally appropriate treatment in accordance with PRC Section 5097.98(b). Any additional costs as a result of complying with this section shall be borne by the project applicant. The project applicant may continue grading and construction activities may resume after complying with PRC Section 5097.8(e).

7. **Hold Harmless Agreement:** 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 landowner 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 CUP.

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

8. **Noise:** The project shall self-monitor sound system levels to ensure that such levels are in compliance with Zoning Ordinance Section 130.37.060.1, Noise Standards, and the submitted Environmental Noise Assessment (Exhibit H). Failure to comply with sound system levels shall result in termination of the event and a moratorium on future events for the applicant and property owner of two (2) calendar years from the date of non-compliance. A second violation after such time shall result in revocation of the CUP and a permanent moratorium on future events for the applicant and property owner whether on the project parcel or any other parcel within the County. Noise violations to be substantiated by El Dorado County Code Enforcement.
9. **Signs:** The project shall remove and replace existing onsite signs along State Highway 193 to conform to the requirements of Section 130.36, Signs, of the Zoning Ordinance. The project site may have one (1) non-illuminated sign with a maximum sign area of 16 square feet and a maximum height of 12 feet.
10. **Setbacks:** All special event activities shall maintain a setback of 200 feet from all residentially zoned land including, but not limited, to the Rural Lands zoning designation, and 50 feet from all agriculturally zoned lands.

11. **Commercial Vineyard:** Should the minimum acreage of wine grapes cease to exist or be properly maintained, as determined by the Agricultural Commissioner, all uses allowed by this CUP shall immediately cease until such time as the required five (5) acres of wine grapes are re-established to the satisfaction of the Agricultural Commissioner. A determination by the Agricultural Commissioner may be appealed to the Agricultural Commission, whose decision is final.
12. **Commercial Vineyard:** Should the minimum acreage of wine grapes cease to exist or be properly maintained, as determined by the Agricultural Commissioner, all uses allowed by this CUP shall immediately cease until such time as the required five (5) acres of wine grapes are re-established to the satisfaction of the Agricultural Commissioner. A determination by the Agricultural Commissioner may be appealed to the Agricultural Commission, whose decision is final.
13. **Continued Winery:** The subject winery shall be bonded through the Alcohol, Tobacco Tax and Trade Bureau and shall have a current California Alcohol Beverage Control (ABC) Type 2 Winegrower's License. Should either bond or license lapse, all uses allowed by this CUP shall immediately cease until such that they are re-established.
14. **Generators:** No generator shall be used for any special event activities, except as an emergency backup to another power source. The term "emergency", for purposes of this provision, means a temporary outage of the primary power source due to circumstances that are verifiably beyond the permittee's control and unrelated to non-payment of a utility or other vendor providing or servicing the primary power source.
15. **Event Log:** The applicant shall keep a log of all events including whether the event included outdoor amplified noise, date, time and number of guests in attendance. An Event Log shall be provided to the Planning Department by January 31st of each calendar year, or more frequently upon request.