

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



Agenda of: May 14, 2015

Staff: Joseph Prutch

SPECIAL USE PERMIT

FILE NUMBER: S10-0011/David Girard Vineyards

APPLICANT: David Girard

REQUEST: Special Use Permit to allow up to 100 special events per year, including, but not limited to, weddings, charitable events, and live music, for up to 320 guests per event on two adjacent parcels at the David Girard Winery.

LOCATION: East side of Cold Springs Road at the intersection with Thompson Hill Road, in the Gold Hill area, Supervisorial District 4. (Exhibit A)

APNs: 089-030-23 and 089-030-24 (Exhibit B)

ACREAGE: 41.52 and 20.00 acres, respectively

GENERAL PLAN: Agricultural Lands-Agricultural District (AL-A) (Exhibit C)

ZONING: Exclusive Agricultural (AE) and Estate Residential Ten-Acre (RE-10), respectively (Exhibit D)

ENVIRONMENTAL DOCUMENT: Mitigated Negative Declaration

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

1. Adopt the Mitigated Negative Declaration based on the Initial Study prepared by staff;
2. Adopt the Mitigation Monitoring Program in accordance with CEQA Guidelines, Section 15074(d), incorporating the Mitigation Measures in the Conditions of Approval as presented; and

3. Approve Special Use Permit S10-0011 based on the Findings and subject to the Conditions of Approval as presented.

PROJECT INFORMATION

Project Description: A special use permit request to allow the use of the project site for up to 100 events per year, including, but not limited to, weddings, charitable events and live music, for up to 320 guests per event. The hours of operation would be 9:00 a.m. to 10:00 p.m. The following table summarizes the Project Area’s lot sizes, zoning and existing and proposed uses.

APN	Acreage	Zoning	Existing Uses and Improvements	Proposed Uses
089-030-23 “winery parcel”	41.52	AE	Winery and tasting room, outdoor assembly area, Viticulture Galleria events building, and approximately 30 acres of vineyards. Approximately 2,400 square foot wine-tasting building, 600 square foot storage barn, 1,200 square foot equipment shelter, 4,200 square foot outdoor assembly area along the north boundary, and 6, 360 square foot Viticulture Galleria event building with a 2,500 square foot covered porch and 480 square feet of storage.	100 special events per year with a maximum of 320 persons per event from 9 a.m. to 10 p.m.
089-030-24 “amphitheater parcel”	20.00	RE-10	Approximately 10 acres of vineyards and an outdoor amphitheater to hold outdoor music concerts and weddings.	Same as above

The following activities/events are proposed:

Marketing Events (130.14.200.C.2.c): Wine dinners, seminars, live music, release parties, cooking classes, wine tasting classes, cheese and wine pairings, grape stomp, open house, passport, and barrel events.

Special Events (130.14.200.C.3): Live music concerts, charitable events, and facility rentals for weddings, receptions, special events, gatherings, celebrations, corporate events, art shows, meetings, and mixers.

Site Description: The project is located at elevations ranging from 1,294 to 1,380 feet above mean sea level. Improvements include a wine production facility, tasting room, events center building, outdoor amphitheater, outdoor assembly area and accessory agricultural buildings along with asphalted and graveled access driveways and parking areas. Approximately 60 percent of both parcels are covered by vineyards. Vegetation in the southern portions of the property is dominated by indigenous oak and pine trees. There is one man-made pond located on the winery parcel. The existing outdoor amphitheater area where summer concerts and weddings are currently held is situated on a raised area at the 1,348 foot elevation. The Viticulture Galleria is elevated at the 1,380 foot elevation. Both areas are approximately level with, and unobstructed

from, the residences to the north. There is an outdoor assembly area located within the area that protrudes along the north boundary that includes a grass area, tables, and a wine tasting bar.

Background: The David Girard Vineyards ownership includes four parcels totaling 85.52 acres. Only two of these four parcels are proposed for special event use. The 41.52 acre parcel (089-030-23) contains the winery, tasting room, storage buildings, events center (“Viticulture Galleria”) and vineyards. The 20.00-acre parcel (089-030-24) contains the outdoor amphitheater and vineyards. Throughout this staff report, parcel 089-030-23 is referred to as the “winery parcel” while parcel 089-030-24 is referred to as the “amphitheater parcel”, and both are collectively referenced as the “project site”.

The 41.52 acre winery parcel is within Agricultural Preserve 294 and was rezoned from RE-10 to AE and placed under a Williamson Act Contract by the Board of Supervisors in December of 2003. This Agricultural Preserve consists of 30 acres of vineyard, 10 acres of grazing, and 1.5 acres of other. The 20.00 acre amphitheater parcel is not part of the Agricultural Preserve. Both parcels attained their current configuration from the approval of Boundary Line Adjustment BLA03-0075 approved in October of 2003, and as shown on Parcel Map PM48-47. The applicant owns two other parcels that adjoin to the south (089-030-08 and -25), but they are not part of this special use permit request.

The Project was heard by the Planning Commission on June 14, 2012, and was continued off-calendar to allow more work to be done on the project request. The Commission summarized their issues as (see Exhibit E):

1. Needing more noise monitoring;
2. Unlimited events not a reasonable request;
3. Needing a clear definition of how often the facilities would be used for amplified vs. non-amplified music and where and when on the property;
4. Stating that special events are independent of retreats, conferences or other weekday venues; and
5. Needing the applicant to move forward with a boundary line adjustment.

Last time this project was heard by the Planning Commission, the Viticulture Galleria building was being constructed to replace a tent structure on the winery parcel. Building permits for the Galleria were finalized on August 9, 2012 and the building is complete. The tent was removed.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	AE/RE-10	AL-A	Agricultural/Winery, tasting room, event center, outdoor amphitheater, outdoor assembly area
North	RE-10	AL-A/RR-A	Residential/Single-family residences
South	RE-10/AE	AL-A	Agricultural and residential/Vacant and single-family residences

East	AE	AL-A	Agricultural/Vacant.
West	RA-20/RE-5	RR-A	Residential/Single-family residences (across Cold Springs Road).

The closest dwelling is approximately 1,000 feet north of the outdoor amphitheater area where summer concerts and weddings are currently held. The project site is surrounded by General Plan-designated Agricultural Lands currently encumbered by Agricultural Preserves to the east and south. The overwhelming majority of these agricultural preserves are being used for grazing. The surrounding agricultural preserves are as follows:

<u>APN</u>	<u>AP #</u>	<u>Acres</u>	<u>Planted acres</u>
089-010-08	22	80	All grazing
089-010-32	72	130.2	Grazing 30, other 100.2
089-010-62	22	30	Grazing
089-010-63	22	12	Grazing
089-010-64	22	36	Grazing
089-010-65	22	45	Grazing 35.8, other 9.2

STAFF ANALYSIS

The General Plan designates the subject site as Agricultural Lands, with an Agricultural District overlay (AL-A). Policy 2.2.1.2 states the AL-A designation applies to lands described in Policy 8.1.1.8 and allows a maximum two residential dwellings used to support the allowed agricultural use. Policy 8.1.1.8 states that AL lands shall be of sufficient size to sustain agricultural use and should possess one or more of the following characteristics: 1) Are under Williamson Act or Farmland Security Zone Contracts; 2) Contain the characteristics of choice agricultural land; or 3) Are under cultivation for commercial crop production or are identified as grazing land. Further, they must meet one of the following: 1) Are located in the county’s Rural Region; or 2) The County Department of Agriculture has determined that the land is well suited for agricultural production.

The project site contains choice agricultural lands, is producing a commercial crop, and is located in the county’s Rural Region. The winery parcel is under an existing Williamson Act Contract. Therefore, the project is consistent with the above policies of the General Plan.

Project Issues: Discussion items for this project include conflicts with the Zoning and Winery Ordinances, access and circulation, noise, and parking.

Conflicts with the Zoning and Winery Ordinances: The 20.00 acre amphitheater parcel is Zoned RE-10. The RE-10 Zoning District does not permit wineries but does permit the cultivation of tree and field crops. With a special use permit, an RE-10 parcel within an Agricultural District is allowed to have special events under Table 130.14.200.B3. More than 60 percent of the parcel is in cultivation with a vineyard and the only structure on this property is the amphitheater.

According to the Winery Ordinance (Section 130.14.200), an RE-10 zoned parcel within an Agricultural District of 10 acres or more in size and with a minimum five acres of vineyards is allowed by right to have a winery, picnic areas, and marketing events. It is also allowed by special use permit to have special events limited to the provisions of Section C.3 of the Winery Ordinance. Said limitations are set at 48 days per calendar year. Facility rental events, considered to be special events where the property owner is compensated for the use of the site and facilities, such as weddings, parties, company picnics, birthdays, reunions, or other social gatherings are further limited to 24 facility rentals per calendar year. All events are limited to 250 persons at any one time. Events in excess of these standards are prohibited.

The applicant is requesting a total of 100 special events per year with up to 320 persons per event over both parcels as a single entity, which could include special events and facility rental events. These events would likely occur over both the amphitheater and winery parcels; such as when a wedding is performed in the amphitheater while the reception is held in the Viticulture Galleria building. The applicant proposes to hold weddings and smaller wine club events primarily, with concerts and other outdoor events less often. The applicant had four outdoor concerts in 2014 and plans to have less this year.

This Viticulture Galleria building has a maximum occupancy of 299 people seated at tables and 642 people seated on chairs only. A condition is included to limit the number of people to the maximum capacity when an event will have people seated at tables. The Environmental Management Divisions has clarified that this building has adequate toilets and septic capacity to accommodate 320 people at an event.

The winery parcel is zoned AE and is allowed to have special events that exceed the provisions of C3 with a special use permit. Because these two parcels are linked by way of same ownership and same winery, and they share parking areas and access road, the SUP will allow uses on both parcels consistent with the purpose of the winery ordinance. The conditions of approval will establish the link between the AE zoned winery parcel and the RE-10 zoned amphitheater parcel by providing the outdoor events will be accessory to the winery. Should the winery cease operation, the RE-10 outdoor events use would cease operation as well. Further, if the amphitheater parcel is sold then the outdoor events use would cease.

Access and Circulation: Policy 6.2.3.2 directs the applicant to demonstrate that adequate access exists, or can be provided for emergency vehicles and private vehicles to access and evacuate the area. The project's primary access points are from two encroachments onto Cold Springs Road which is a County-maintained road. The Transportation Division has found that the project does not trip the thresholds of the General Plan that require preparation of a traffic analysis.

The El Dorado County Fire Protection District has recommended a condition of approval to limit parking along access roads to ensure safe emergency ingress/egress and road width. As conditioned, neither Transportation Division nor the Fire District has any outstanding concerns with the proposed access and circulation of the project.

Noise: General Plan Policy 6.5.1.2 states that "where proposed, non-residential land uses are likely to produce noise levels exceeding the performance standards of Table 6-2 at existing or

planned noise-sensitive uses, an acoustical analysis shall be required as part of the environmental review process so that noise mitigation may be included in the project design.” Policy 6.5.1.7 states that “noise created by new proposed non-transportation noise sources shall be mitigated so as not to exceed the noise level standards of Table 6-2 for noise-sensitive uses.”

For outdoor amplified music, Section 130.14.200.E.9 of the Winery Ordinance states that “the General Plan noise standards contained in Policy 6.5.1.7 and Table 6-2 shall be adhered to for all events featuring outdoor amplified music or amplified speech. For any events occurring between 7 p.m. and 10 p.m., a noise analysis shall be submitted to the Development Services Department demonstrating that the noise standards will not be exceeded. No outdoor music will be permitted after 10 p.m.”

When complaints of noise such as loud outdoor music are received, County Code Section 9.16.050 (Loud and Raucous Noises—Prohibited) applies. Except as otherwise provided in Chapter 9, “it is unlawful for any person to willfully make, emit, or transmit or cause to be made, emitted, or transmitted any loud and raucous noise upon or from any public or private property to such an extent that it unreasonably interferes with the peace and quiet of another's private property.”

The applicant has submitted a Noise Impact Assessment of Outdoor Concerts at David Girard Vineyards (see Exhibit I), dated September 19, 2012, which concluded that concert noise levels at the residences to the north are above the County’s limits without additional mitigation. With mitigation, concert and other amplified noise impacts can be reduced to less than significant levels.

The Noise Assessment included alternative noise reduction methods to meet the General Plan Noise Element limits, which are included as mitigation measures in the conditions of approval. These methods include: reducing the sounds levels at the source, using the Galleria building for louder concerts, changing the concert schedule so that louder concerts occur during the day and end by 7:00 p.m., eliminating stage monitor speakers and instead using in-ear monitors, using preferred loudspeakers that can direct the sound, and building an acoustical barrier behind the amphitheater stage to reduce sounds levels to nearby residents. Implementation of one or more of these options, as conditioned, is required to meet the County’s noise limits.

Parking: The submitted Overall Site Plan was reviewed to verify compliance with Zoning Ordinance on-site parking requirements. The Winery Ordinance defers to Section 130.18.060 of the Zoning Ordinance which lists the parking requirements by use. Wineries are not specifically listed as one of those uses. Winery Ordinance Section 130.14.200.E.4.c allows overflow parking spaces to be graveled, and requires compliance with Fire District requirements.

The submitted site plan shows 93 paved and striped parking spaces and 58 graveled overflow spaces for a total of 151 spaces. Planning has historically assumed that each car would average three persons per car for agricultural special events. The applicant proposes a maximum of 320 guests so that 107 spaces would be required at a minimum. Additionally, employees of the winery, caterers, musicians, and others associated with events will require parking. Discussions with the winery events coordinator indicated that the maximum number of catering employees

would be seven and there would be four winery employees who typically park at the winery and not at the tasting facility. Additionally, there would be vehicles for the musicians, sound crew, and others associated with any event. As such, there might be 20 vehicles in addition to those of guests. This is still well under the 151 spaces provided. The following table summarizes the parking and includes accessible spaces:

PARKING REQUIREMENTS TABLE		
Parking Stall Standard	No. of Spaces Required	No. of Spaces Provided
Standard Space	Not defined by County Code, but historically 3 persons per vehicle. (320/3=107 minimum) Estimated employee and event personnel = 20 Total required parking - 127	151
Accessible Spaces	a) 2 at the Tasting Room, 1 with van accessibility; b) 2 at the Viticulture Galleria, 1 with van accessibility.	a) 2, 1 with van accessibility; b) 2, 1 with van accessibility;

Access: The El Dorado County Fire Protection District has required the fire access roads 20 to 29 feet in width to be posted on both sides as a Fire Lane, with no parking allowed on either side of the roadway. Fire access roads 30 to 35 feet in width shall be posted on one side as No Parking Lane, with parking allowed only on the opposite side of the roadway. Fire access roads 36-feet wide and greater may allow parking on both sides of the roadway. The road accessing the project site averages 20 feet in width.

General Plan:

Land Use Compatibility: The General Plan designates both parcels of the subject application request as Agricultural Lands (AL) with Agricultural District (-A) Overlay. Lands assigned the AL designation are required to be of sufficient size to sustain agricultural use and either under a Williamson Act or Farmland Security Zone Contract, contain the characteristics of choice agricultural land, or be under cultivation for commercial crop production or identified as grazing land, and be located in the county’s Rural Region. The -A Overlay identifies areas with choice agricultural soils which the County has determined should be preserved for agricultural uses with agriculture as the primary activity and to discourage incompatible uses such as higher density residential use. The two subject parcels contain soils that are either of Statewide Importance, Unique and Important Locally, or Prime Farmland. Both support commercial vineyards, and the winery parcel is under a Williamson Act Contract. The policies and issues that affect this project are discussed below:

Policy 2.2.5.21 directs that development projects shall be located and designed in a manner that avoids incompatibility with adjoining land uses that are permitted by the policies in effect at the time the project is proposed.

Discussion: The 61.52 acre property exists completely within an agricultural area as shown in Exhibit C (General Plan Map). The Winery Ordinance allows the proposed uses subject to a

special use permit. Staff finds that with the inclusion of the recommended mitigation measures for amplified music, the proposed uses on the property would be compatible with the agricultural character of the neighborhood.

Policy 8.1.3.5 states that on 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 or potential of that parcel and whether the request will diminish or impair the existing or potential use prior to any discretionary permit being approved.

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.

Discussion: Previously, the Agricultural Commission had reviewed the project at their September 14, 2011 meeting and determined that the application was not in compliance with County Code and did not make a formal recommendation. The minutes from that meeting are included in Exhibit G. The Agricultural Commission is an advisory body, and with limited exceptions, a formal recommendation is not required for the Planning Commission to act on an application. The Planning Commission should, however, take their advice into consideration as required by the General Plan.

The Agricultural Commission reviewed the project a second time at their March 11, 2015 meeting. They voted unanimously to recommend conditional approval of the special use permit with the understanding that conditional approval should be based on the fact that the two parcels operate together and concurrently and that the amphitheater is considered accessory and adjunct to the winery. The minutes from that meeting are included in Exhibit G-1.

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.

Discussion: Staff finds that the proposal for the property, as conditioned, would be compatible as the majority of the surrounding parcels are involved in agricultural uses and the Winery Ordinance allows such uses under an SUP subject to conditions and mitigation measures reducing any incompatibility, when applicable.

General Plan Consistency: The project has been reviewed in accordance with the General Plan policies, and would be consistent with the General Plan with the incorporation of the recommended conditions of approval. Findings of consistency with the General Plan are provided in the attached Findings.

Zoning: As shown in Exhibit D, the parcel identified by APN 089-030-23 (“winery parcel”) is zoned Exclusive Agricultural (AE) and the parcel identified by APN 089-030-24 (“amphitheater parcel”) is zoned Estate Residential Ten-Acre (RE-10). The AE-zoned parcels are permitted to

have wineries by right, subject to the provisions of Section 130.14.200. The RE-10 zoned parcels are allowed wineries by right if they meet certain provisions of the Winery Ordinance. Agricultural structures, and the raising, packing, processing and sale of field crops so as not to change the nature of the products, are permitted by right, in compliance with Sections 130.70.090 B, E and F.

The RE-10 Zoning District allows, by special use permit, “the construction of schools, churches, cemeteries, parks, golf courses, and public utility structures” (130.70.100.C). The Planning Director and Planning Commission have previously found that an “events center” is not consistent with zoning as a standalone use on RE-10 zoned land. However, in the case of this property, although it is zoned RE-10, the special events are being driven by the adjacent winery (David Girard) and the access, parking, and operations are inexorably linked to the winery and winery property. In this case, the Planning Director finds that the use may be authorized under 130.70.100.C as a use similar to a “school, church, cemetery, park, golf course, or public utility structure”, but only because it is adjunct to the winery on the adjacent parcel. The applicant has requested that this approach be used for this special use permit because he does not want to rezone the RE-10 land to agricultural zoning, or to conduct a boundary line adjustment to move lot lines to merge the amphitheater within the winery parcel.

Section 130.14.200.D.6 (Lot) states, “for purposes of the Winery Ordinance, the term “Lot” is used to describe an individual legal parcel. Lots under the same ownership are not considered to be a single lot for purposes of the Winery Ordinance.” Therefore, a Lot Line Adjustment could be considered to join the amphitheater structure with the winery parcel. However, the Planning Director finds that the amphitheater could be used in conjunction with the winery parcel in compliance with Section 130.70.100.C as this parcel is under the same ownership, shares the vineyard grapes, and shares driveway access and parking. As such, the winery and the special use permit encompass both parcels. As conditioned, if either lot were sold separately, it would be subject to review by the Planning Commission. If the winery ceases operation, this Special Use Permit becomes void.

Winery Ordinance Section 130.14.200.E.2 establishes a 50-foot setback requirement for all wineries, tasting facilities, and outdoor use areas, excluding parking lots and picnic areas for parcels within a General Plan Agricultural District. This setback requirement would exclude many activities from occurring within the small portion of the winery parcel that juts into the north boundary. This small 100 by 100 foot area is currently being used as an outdoor assembly area for wine tastings and dinners. A condition is included that will only allow this 100 by 100 foot area to be used as a parking lot or picnic area.

Special Use Permit: Sections 130.14.200.C.3.a and b allow special events for wineries up to 48 days per calendar year, and limited to 250 persons at one time. An increase in the number of attendees and events over and above those allowed by right would be allowed only after obtaining a Special Use Permit from the Planning Commission.

The following Special Use Permit findings are required by Section 130.22.540 of the Zoning Ordinance:

1. The issuance of the permit is consistent with the General Plan;

Discussion: As discussed in the General Plan and Project Issues sections of the Staff Report, the project, as conditioned, would be consistent with the General Plan.

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

Discussion: The addition of mitigation measures and conditions of approval would insure that the project would not have a significant impact on the neighborhood.

3. The proposed use is specifically permitted by Special Use Permit in compliance with the Zoning Ordinance.

Discussion: As discussed above, the special events proposed on APN 089-030-23 are specifically permitted by Section 130.14.200.B of the Zoning Ordinance with an approved Special Use Permit. Further, the special events proposed on APN 089-030-24 are prohibited by Section 130.14.200.B of the Zoning Ordinance. However, in compliance with Table 130.14.200.B.3, AE zoning allows the increase in special events and in people per event with an approved special use permit provided the parcel is in an agricultural district. The RE-10 zoning district does not, but staff finds that the parcels and uses are linked due to same ownership and shared vineyards, access, and parking.

Conclusion: Based on consistency with the General Plan, compatibility with adjacent land uses, and less than significant environmental impacts achieved by the implementation of the recommended conditions, staff finds that the necessary findings can be made to support the project request for Girard Vineyards. The details of the Findings are contained in the Findings section below.

ENVIRONMENTAL REVIEW: Staff has prepared an Initial Study, Environmental Checklist Form (Exhibit J). Based on the Initial Study, measures have been added to the project to avoid or mitigate to a point of insignificance the potentially significant effects of the project. Staff has determined that there is no substantial evidence that the proposed project, as mitigated, would have a significant effect on the environment, and a Mitigated Negative Declaration has been prepared.

In accordance with State Legislation (California Fish and Game Code Section 711.4), the project is subject to a fee after approval, but prior to the County filing the Notice of Determination on the project. This fee, plus a \$50.00 administration fee, is to be submitted to Development Services and must be made payable to El Dorado County. The fee is forwarded to the State Department of Fish and Wildlife and is used to help defray the cost of managing and protecting the State's fish and wildlife resources.

SUPPORT INFORMATION

Attachments to Staff Report:

Conditions of Approval
Findings

Exhibit A.....Location Map
Exhibit B.....Assessor’s Parcel Map
Exhibit C.....General Plan Map
Exhibit D.....Zoning Map
Exhibit E.....Overall Site Plan
Exhibit E-1.....Viticulture Galleria Site Plan
Exhibit F.....Applicant-submitted Project Description
Exhibit F-1.....Response to Planning Commission Comments
Exhibit G.....Agricultural Commission Memorandum; September 21, 2011
Exhibit G-1.....Agricultural Commission Memorandum; March 17, 2015
Exhibit H.....Planning Commission Minutes; June 14, 2012
Exhibit I.....Noise Impact Assessment, September 19, 2012
Exhibit J.....Mitigated Negative Declaration and Initial Study