

FINDINGS

Conditional Use Permit Revision S04-0001-R-2/Oakstone Vineyards Planning Commission/September 13, 2018

Based on the review and analysis of this project by staff and affected agencies, and supported by discussion in the staff report and evidence in the record, the following findings can be made:

1.0 CEQA FINDINGS

- 1.1 The proposed communication facility is Categorically Exempt from CEQA pursuant to Section 15301 (a) of the CEQA Guidelines. Class 1 exemptions consist “of the operation, repair, maintenance, permitting, leasing, licensing, or 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.” This approval will not lead to the construction or alteration of any new buildings, utility infrastructure or additional impervious surfaces on the site. Moreover, there are no new uses that will be permitted as a result of approval of this revision to this permit. Therefore, this determination is consistent with this exemption classification under CEQA.
- 1.2 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Planning and Building Department - at 2850 Fairlane Court, Placerville, CA, 95667.

2.0 GENERAL PLAN FINDINGS

2.1 The project is consistent with General Plan Policy 2.2.1.2.

General Plan Policy 2.2.1.2 establishes an appropriate range of land use types and densities within the County. The Rural Residential (RR) land use designation establishes areas suitable for single-family residential development in a rural setting.

Rationale: The project has an RR General Plan Land Use Designation. The project is surrounded by rural residential development. Moreover, there are other wineries in the area, many of whom have the same General Plan Land Use Designation. The project will be compatible with surrounding uses.

2.2 The project is consistent with General Plan Policy 5.1.2.1.

General Plan Policy 5.1.2.1 requires a determination of the adequacy of the public services and utility to be impacted by that development.

Rationale: The project was reviewed for adequate public services capacity. The project will not affect existing electrical facilities and public services to the parcel. The operation of the facilities will require no additional solid

waste service as no new buildings, or significant expansion of existing buildings, is proposed. No new or expanded wastewater treatment facilities would be required. The project would also not generate any additional solid waste.

2.3 The project is consistent with General Plan Policy 5.1.2.2.

General Plan Policy 5.1.2.2 requires that adequate quantity and quality of water for all uses, including fire protection, be provided with proposed development.

Rationale: The proposed project is located within very high fire hazard area. The Pioneer Fire Protection District was given the opportunity to comment and had no additional conditions of approval to apply to the project. The facility will require the use of potable water, but there is an existing well and septic system on site. Both of these systems are adequate for the proposed uses.

2.4 The project is consistent with General Plan Policy 6.2.3.2.

General Plan Policy 6.2.3.2, Adequate Access for Emergencies, requires that the applicant demonstrate that adequate access exists, or can be provided to ensure that emergency vehicles can access the site and private vehicles can evacuate the area.

Rationale: In compliance with Policy 6.2.3.2, the project will utilize existing gravel driveways and roads accessed off public roads. The El Dorado County Transportation Department and the Pioneer Fire Protection District have reviewed the application materials and do not require additional site access or improvement to the existing roads.

2.5 The project is consistent with General Plan Policy 7.4.4.4.

General Plan Policy 7.4.4.4 requires all new development projects that would result in soil disturbance on parcels that are over an acre and have at least one percent total canopy cover shall adhere to the tree canopy retention and replacement standards.

Rationale: The project site is over an acre with over one percent area of oak tree canopy. Approximately 40% of the project site has an existing tree canopy cover. No construction or ground disturbance is proposed so therefore, no oak tree impacts.

3.0 ZONING FINDINGS

3.1 The project is consistent with Section 130.40.400.

Section 130.40.400 regulates how what zones allow wineries.

Rationale: The project is located in a Limited Agriculture zone in an agricultural district, which allows wineries subject to approval of a Conditional Use Permit by the Planning Commission. Staff has determined that the proposed project is consistent with the El Dorado County General Plan policies and Zoning Ordinance requirements, as discussed in the Findings.

3.2 The project is consistent with Section 130.40.400(D).

Section 130.40.400(D) requires that proposed a winery within the Limited Agricultural Zoning, be subject to Planning Commission approval of a Conditional Use Permit.

Rationale: This project is proposed within an agricultural zone; therefore is subject to review by the Planning Commission, the decision-making body. In addition, this project was reviewed and approved by the Agricultural Commission as part of the approval process.

3.3 The project is consistent with Section 130.40.400(E-G).

Section 130.40.130(E-G) of the Zoning Ordinance requires that all wineries meet certain criteria. Below is an analysis of these standards:

E. Winery Uses: The following provisions shall apply to all wineries, accessory structures, and accessory uses:

1. General Winery Provisions.

a. The primary purpose of the winery shall be to process fruit grown on the winery lot or on other local agricultural lands. No more than 50 percent of the fruit processed shall be imported from outside El Dorado County.

b. Wineries include those areas of a winery where grapes are crushed, fermented, or pressed; where bulk wine is stored in tanks or barrels; where winery operations such as racking, filtering, blending, or bottling of wines are carried out; and where on-site case goods are stored.

c. Multiple lots under the same ownership are not considered to be a single lot for purposes of this Section.

Rationale: The applicant grows and processes all grapes used for wine-making on site. The entire winery is on only one parcel, and it meets all applicable zoning and general plan requirements.

2. *Tasting Facilities.*

a. Subordinate to Winery. Tasting facilities shall be clearly related and subordinate to the primary operation of the bonded winery as a production facility. The primary focus of the tasting facilities shall be the marketing and sale of the wine and grape or fruit products produced, vinted, cellared, or bottled at the winery. Snack foods that are consumed during wine tasting are allowed.

Rationale: The applicant has a tasting room. On the busiest days (Saturdays and Sundays, typically) the applicant sometimes has tasting tables in the wine cellar. The only wines offered for consumption are those produced on site. No other foods or beverages are served, besides those that are typically consumed during wine tasting.

b. Wine Sales. Retail sales of wine fruit products shall be limited to those produced, vinted, cellared, or bottled by the winery operator or grown on the winery lot, or custom crushed at another facility for the winery operator, subject to the provisions of an ABC Type 2 Winegrower's license. (The ABC Type 2 Winegrower's license requires that at least 50 percent of the wine sold be produced by the winery).

Rationale: The applicant has an ABC Type 2 Winegrower's License. On the busiest days (Saturdays and Sundays, typically) she sometimes has tasting tables in the wine cellar. The only wines sold are those produced on site. No other foods or beverages are sold on site.

c. Marketing. Tasting facilities include any marketing activities sponsored by a winery facility intended for the promotion and sale of the facility's products. Activities of a marketing event may include, but are not limited to live music, catered food, food prepared on the premises, winemaker dinners, releases, library wines, discounted sales, "bottle your own", and similar activities. Live music is subject to Subsection G.8 (Outdoor Amplified Music) below. Concerts or events sponsored by or for the benefit of an organization other than the winery shall not be allowed as marketing events, but may be allowed as special events subject to Subsection E.3 (Special Events) below.

Rationale: Not applicable. The applicant does not host special events, and this revision is not proposing to modify this component of the Conditional Use Permit.

3. *Special Events. Special events, as defined in Article 8 (Glossary), are any events such as charitable events, promotional events, and facility rental events Specific Use Regulations above.*

a. Number Allowed. Special events are limited to a total of 48 days per calendar year. Special events that have less than 50 persons at one time shall not count against the total number of events allowed. Facility rental events are a type of special event 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. Facility rental events are part of the total special events allowed, but are further limited to the following:

(1) Lots less than 20 acres in size: 12 days per calendar year.

(2) Lots 20 acres or more in size: 24 days per calendar year.

Rationale: Not applicable. The applicant does not host special events, and this revision is not proposing to modify this component of the Conditional Use Permit.

b. Capacity Limitation. All special events are limited to 250 persons at one time.

Rationale: Not applicable. The applicant does not host special events, and this revision is not proposing to modify this component of the Conditional Use Permit.

c. Ranch Marketing. The number of special events shall not be added to or combined with those allowed by right under Section 130.40.260 (Ranch Marketing).

Rationale: Not applicable. The applicant does not host special events, and this revision is not proposing to modify this component of the Conditional Use Permit.

d. Temporary Use Permit. Those special events, such as fundraisers, concerts, or other special functions where the number of attendees will exceed 250 persons at any given time and where such events are held no greater than three times per calendar year and no more than one time per calendar month, may be allowed by Temporary Use Permit in compliance with Section 130.52.060 (Temporary Use Permit).

Rationale: Not applicable. The applicant does not host special events, and this revision is not proposing to modify this component of the Conditional Use Permit.

4. Dining Facility. The dining facility, as defined in Article 8 (Glossary), shall be subordinate to the sale of wine. Areas of a winery that are temporarily set up for winemaker dinners are not considered to be part of the dining facility.

Rationale: Not applicable. The applicant does not host special events, and this revision is not proposing to modify this component of the Conditional Use Permit.

5. Distilleries. A distillery, as defined in Article 8 (Glossary), shall be bonded through the Alcohol and Tobacco Tax and Trade Bureau and have a current California ABC License. Distilleries are only allowed with a Conditional Use Permit in conjunction with a winery on the same lot. Allowed activities include, but are not limited to, blending, aging, storing, bottling, and warehousing operations; tasting facilities; wholesale and retail sales; and administrative functions.

Rationale: Not applicable. This property is not a distillery, and this revision is not proposing to modify this component of the Conditional Use Permit.

6. Commercial Kitchen. A commercial kitchen, as defined in Article 8 (Glossary), shall be accessory to the winery, tasting room, and any other authorized accessory use.

Rationale: Not applicable. The applicant does not have a commercial kitchen, and this revision is not proposing to modify this component of the Conditional Use Permit.

7. Museum. Agriculture-related museums shall be accessory to a winery and tasting room and shall primarily display items from California's agricultural history.

Rationale: Not applicable. The applicant does not host a museum, and this revision is not proposing to modify this component of the Conditional Use Permit.

8. Picnic Areas. Picnic areas shall be subordinate to the winery and tasting room.

Rationale: The applicant has a small deck area that is part of the tasting room where customers can consume wine purchased on-site.

9. Retail Sales. Retail sales of merchandise, art, and prepackaged food items shall only be allowed within the tasting facilities and shall not be located in a separate structure. The sale of prepackaged food items shall comply with the California Health and Safety Code and be permitted by Environmental Management. Sale of non-wine merchandise shall be subordinate to the wine sales.

Rationale: The applicant has a limited amount of art and merchandise sales within the tasting room, and this revision is not proposing to modify this component of the Conditional Use Permit. Food is not sold on-site.

10. Catering. As defined in Article 8 (Glossary), use of an on-site commercial kitchen for catering off-site events may be allowed by Conditional Use Permit and only when the catering use is found to be subordinate to the winery's wine sales.

Rationale: Not applicable. The applicant does not host special events, and this revision is not proposing to modify this component of the Conditional Use Permit.

F. Special Provisions.

1. Use Compatibility Limitations. Proposed winery facilities that are not located within an Agricultural District and that have property lines adjacent to a lot with a non-compatible zone designation shall require a Conditional Use Permit. For purposes of this Subsection, non-compatible shall be RM, R1, R20K, R1A, R2A and R3A. The use compatibility determination will be made prior to issuance of a building permit for a winery building. Subsequent expansion of the facility's structures or uses will require additional use compatibility determinations.

Rationale: Not applicable. The applicant is in a Limited Agriculture zone, and is not adjacent to any non-compatible zone designations.

G. Development Standards. These standards are the minimum required for all wineries, accessory uses, and structures listed in Subsection E (Winery Uses) above. Additional requirements may be added through the discretionary permitting process, if applicable.

1. Commercial Vineyard. Should the minimum acreage of wine grapes cease to exist or be properly maintained, as determined by the Agricultural Commissioner, the right to operate the winery and all accessory uses shall immediately cease until such time as the required five 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 Ag Commission whose decision shall be final.

Rationale: Not applicable. The applicant does not plan any physical changes to the site, and is already in conformance with these provisions. The Agricultural Commission has already approved this project by a vote of 5-0, with one abstention and one absence.

2. Setbacks. The following minimum setbacks apply to all wineries, tasting facilities, and outdoor use areas, excluding parking lots and picnic areas:

a. Adjacent to non-residential zones: 50 feet from all property lines.

b. Adjacent to residential zones: 200 feet from all property lines.

c. The 200 foot setback in 2.b above in this Section may be reduced to no less than 50 feet by a grant of administrative relief in compliance with Section 130.52.010 (Administrative Permit, Relief, or Waiver)

Rationale: Not applicable. The applicant does not plan any physical changes to the site, and is already in conformance with these provisions.

3. Signs. See Chapter 130.16 (Signs).

Rationale: Not applicable. The applicant does not plan any physical changes to the site, and is already in conformance with these provisions.

4. Parking. The following parking standards shall apply to wineries, tasting rooms, and accessory uses:

a. Permanent parking spaces shall be provided for wineries, tasting rooms, and retail sales areas in compliance with Chapter 130.35 (Parking and Loading).

Rationale: The applicant is in compliance with this provision, and is seeking to expand parking within the existing surface.

b. Parking surfaces shall be surfaced with a Class 2 aggregate base or equivalent, with appropriate hard-surfacing for designated ADA compliant parking stalls.

Rationale: The applicant is in compliance with this provision, and is seeking to expand ADA parking within the existing surface.

c. Temporary parking for marketing activities and special events may utilize overflow parking areas that are not surfaced. Limitations on the number of guests may be based on availability of off street parking in compliance with Chapter 130.35 (Parking and Loading). All temporary parking shall be accommodated on-site and shall meet any fire district requirements.

Rationale: Not applicable. The applicant does not host special events, and this revision is not proposing to modify this component of the Conditional Use Permit.

5. Access Standards. Access standards shall be as follows:

a. Direct access from a non-county maintained road, regardless of whether the road is located on or off-site, shall require the following:

(1) In an Agricultural District. An Administrative Permit in compliance with Section 130.52.010 (Administrative Permit, Relief, or Waiver), following a recommendation by the Ag Commission.

(2) Not in an Agricultural District. A Conditional Use Permit in compliance with Section 130.52.020 (Conditional and Minor Use Permits).

Rationale: The Agricultural Commission approved the project on April 11, 2018, with a 5-0 vote, with one abstention and one absence.

b. Road Maintenance. The winery owner will be required to participate in a private road maintenance entity, annex into a road zone of benefit (ZOB), or otherwise pay a fair share for road maintenance as determined by the review authority.

Rationale: The applicant pays fair share for road maintenance.

c. Fire Safe/Code Standards. Access to a winery open to the public shall meet the minimum access requirements of the applicable fire district, including both on-site and off-site access roads. Exceptions to these standards may be allowed by the fire district, subject to the appeal processes identified in the SRA Fire Safe Regulations.

Rationale: The applicant meets all Fire Safe/Code Standards.

d. Facilities Not Open to the Public. A winery that is not open to the public and does not provide on-site sales may be accessed by a non-county maintained road.

Rationale: Not applicable. The winery is open to the public.

6. Size Limitation.

a. The winery, accessory buildings, and accessory uses shall not occupy more than five acres or 50 percent of the gross lot area, whichever is less.

Rationale: Not applicable. All existing buildings occupy meet this standard, and no new buildings are being proposed as part of this project.

b. All new wineries and expansions of existing wineries that exceed 10,000 square feet of floor area and are visible from a county maintained road shall require a Design Review Permit in compliance with Section 130.52.030 (Design Review Permit).

Rationale: Not applicable. No new buildings are being proposed as part of this project.

c. Tent structures that exceed 1,200 square feet of floor area and are visible from a county maintained road shall be limited to a 30 day period, three times per

calendar year, unless additional time frames are approved by a Temporary or Conditional Use Permit.

Rationale: Not applicable. No new buildings are being proposed as part of this project.

d. The total enclosed square footage of all floors of a winery building shall not exceed the square footage shown in the Table 130.40.400.2 (Allowed Square Footage for Winery Buildings) below. Any winery building or group of winery buildings and accessory buildings exceeding the square footage in Table 130.40.400.2 (Allowed Square Footage for Winery Building) below shall require a Conditional Use Permit. Winery buildings do not include residential buildings, garages, outbuildings, and structures not associated with the winery, such as agricultural buildings.

Table 130.40.400.2 – Allowed Square Footage for Winery Buildings

<i>LOT ON WHICH THE WINERY IS LOCATED</i>	<i>MAXIMUM ALLOWABLE WINERY BUILDING SIZE</i>
<i>10 acres to less than 20.0 acres</i>	<i>10,000 square feet</i>
<i>20 acres but less than 40.0 acres</i>	<i>40,000 square feet</i>
<i>40.0 acres and larger</i>	<i>60,000 square feet</i>

Rationale: Not applicable. No new buildings are being proposed as part of this project.

7. Cultural Resource Protection.

a. Winery development on a lot identified by the county as being listed on the National Register of Historic Places (NRHP) and California Register of Historic Places (CRHR) shall be required to preserve the structure(s). Modifications or demolition of the structures shall only be approved based on recommendations from a cultural resource report that meets county guidelines.

Rationale: Not applicable. No new buildings are being proposed as part of this project.

b. Winery development within 100 feet of perennial or intermittent streams shall submit a cultural resource study prior to approval of grading or building permits. Cultural sites identified in the study and recommended for avoidance and protection shall be protected as recommended in the cultural resource study.

Rationale: Not applicable. No new buildings are being proposed as part of this project.

8. Outdoor Amplified Music. All events featuring outdoor amplified music or amplified speech shall comply with Chapter 130.37 (Noise Standards). For any events occurring between 7pm and 10pm, a noise analysis shall be submitted to the Department demonstrating that the noise standards will not be exceeded. No outdoor music will be allowed after 10 p.m.

Rationale: Not applicable. The applicant does not host special events, and this revision is not proposing to modify this component of the Conditional Use Permit.

9. Wine Caves. The use of subterranean space for winery facilities in natural or manmade caves shall be in compliance with all applicable building and fire codes, and permit requirements.

Rationale: Not applicable. No new buildings are being proposed as part of this project.

4.0 CONDITIONAL USE PERMIT FINDINGS

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

The proposed use is consistent with the policies and requirements in the General Plan as discussed in the General Plan section of the Staff Report. The proposed use is consistent with all applicable policies as set forth in Finding 2.0 above.

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

The use will not significantly conflict with the adjacent uses as no new buildings or uses are proposed for the site. As conditioned, the project is anticipated to result in insignificant environmental impacts to neighboring residents because many surrounding wineries operate under these conditions without any impact. The proposed use is not anticipated to create hazards that would be considered detrimental to the public health, safety, and welfare, or injurious to the neighborhood based on the data and conclusions contained in the staff report.

4.3 The proposed use is specifically permitted by Conditional Use Permit.

The proposed use complies with the requirements of Zoning Ordinance Section 130.40.400.E through G (development standards/conditions); the winery is a specifically permitted use with an approved Conditional Use Permit.