



# County of El Dorado

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## Legislation Details (With Text)

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**On agenda:** 5/19/2015 **Final action:** 5/19/2015

**Title:** NOTE: The appellant has withdrawn their appeal by written notification to the county on Friday, May 8, 2015. By effect of the withdrawal, this item will be not be heard on May 19, 2015. This item appears on the agenda only as a result of the continuance as publicly announced by the Board on May 8, 2015. No action by the Board is warranted.

HEARING - Consider a request submitted by Nello and Danica Olivo appealing the denial on Special Use Permit Revision S08-0012-R/Rancho Olivo Vineyards by the Planning Commission on February 26, 2015 on property identified by Assessor's Parcel Number 109-090-07, consisting of 21 acres, in the Cameron Park area, submitted by Nello and Danica Olivo; and staff recommending the Board take the following actions:

- 1) Find that the project is Categorically Exempt pursuant to CEQA Sections 15301 and 15303; and
- 2) Deny the appeal on the claim of inadequate due process, thereby upholding the denial of Special Use Permit S08-0012-R by the Planning Commission on February 26, 2015. (Cont. 4/7/15, Item 19) (Supervisory District 2)

### Sponsors:

### Indexes:

### Code sections:

**Attachments:** 1. Applicant Withdrawal Notification - BOS Rcvd 5-8-15.pdf, 2. Public Comment Rcvd 4-9-15 BOS 5-19-15, 3. Public Comment Rcvd 4-8-15 BOS 5-19-15, 4. 3A - Appeal Form BOS 04-07-15, 5. 3B - Planning Commission Minutes 02-26-15 BOS 04-07-15, 6. 3C - Board Hearing Letter BOS 04-07-15, 7. 3D - Notice of Publication BOS 04-07-15, 8. Public Comment Rcvd 4-7-15 BOS 4-7-15, 9. Public Comment Rcvd 4-6-15 BOS 4-7-15, 10. Public Comment Rcvd 4-3-15 BOS 4-7-15, 11. Public Comment Rcvd 4-2-15 BOS 4-7-15.pdf, 12. Public Comment Rcvd 3-31-15 BOS 4-7-15, 13. Public Comment Rcvd 3-23-15 BOS 4-7-15, 14. 2A - Planning Commission Minutes 01-22-15 PC 02-26-15.pdf, 15. 2B - Staff Memo 02-23-15 PC 02-26-15, 16. Public Comments Rcvd 02-26-15 PC 02-26-15, 17. Public Comments Rcvd 02-25-15 PC 02-26-15, 18. Public Comments Rcvd 02-24-15 PC 02-26-15, 19. Public Comments Rcvd 02-19-15 PC 02-26-15, 20. Public Comments Rcvd 02-13-15 to 02-17-15 PC 02-26-15, 21. Public Comments Rcvd 02-12-15 PC 02-26-15, 22. Public Comments Rcvd 02-11-15 PC 02-26-15, 23. Public Comments Rcvd 02-10-15 PC 02-26-15, 24. Public Comments Rcvd 01-30-15 to 02-02-15 PC 02-26-15.pdf, 25. Public Comments Rcvd 01-23-15 to 01-26-15 PC 02-26-15.pdf, 26. A - Staff Report PC 01-22-15.pdf, 27. B - Conditions of Approval PC 01-22-15.pdf, 28. C - Findings PC 01-22-15.pdf, 29. D - Exhibits A-F PC 01-22-15.pdf, 30. E - Proof of Publication PC 01-22-15.pdf, 31. Public Comment Rcvd 01-21-15 PC 01-22-15.pdf, 32. Public Comment Rcvd 01-20-15 PC 01-22-15.pdf, 33. Public Comment Rcvd 01-16-15 PC 01-22-15.pdf, 34. Public Comment Rcvd 01-15-15 PC 01-22-15.pdf, 35. Public Comment Rcvd 01-14-15 PC 01-22-15.pdf, 36. Public Comment Rcvd 01-13-15 PC 01-22-15.pdf, 37. Public Comment Rcvd 01-12-15 PC 01-22-15.pdf, 38. Public Comment Rcvd 01-07-15 PC 01-22-15 .pdf, 39. Public Comment Rcvd 01-05-15 PC 01-22-15 .pdf, 40. Public Comment Rcvd 12-31-14 PC 01-22-15.pdf

Date	Ver.	Action By	Action	Result
5/19/2015	4	Board of Supervisors	No Formal Action	
4/7/2015	3	Board of Supervisors	Continued	Pass
2/26/2015	2	Planning Commission	Failed	Fail

2/26/2015	2	Planning Commission	Failed	
1/22/2015	1	Planning Commission	Continued	Pass

**NOTE: The appellant has withdrawn their appeal by written notification to the county on Friday, May 8, 2015. By effect of the withdrawal, this item will not be heard on May 19, 2015. This item appears on the agenda only as a result of the continuance as publicly announced by the Board on May 8, 2015. No action by the Board is warranted.**

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- 1) Find that the project is Categorically Exempt pursuant to CEQA Sections 15301 and 15303; and
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**NOTE: The appellant has withdrawn their appeal by written notification to the county on Friday, May 8, 2015. As a result, this item will not be heard on May 19, 2015.**

## DISCUSSION/BACKGROUND

This is a request submitted by Nello and Danica Olivo appealing the denial of Special Use Permit Revision S08-0012-R/Rancho Olivo Vineyards by the Planning Commission on February 26, 2015 on property identified by Assessor's Parcel Number 109-090-07, consisting of 21 acres, located at the south end of Rancho Road, approximately 500 feet south of the intersection with Lariat Drive, in the Cameron Park area, Supervisory District 2. [Project Planner: Aaron Mount] (Categorical Exemption pursuant to Sections 15301 and 15303 of the CEQA Guidelines)\*\*

The existing Olivo Winery Special Use Permit does not permit wine tasting or public events. The Special Use Permit Revision is proposed to allow scheduled wine tasting at the existing winery and authorization of 9 special events per year with a maximum of 150 people per event.

The Planning Commission, by lack of a passing motion, denied the project on February 26, 2015. Four Planning Commissioners resided over the hearing as one Commissioner recused himself. Two motions, one to approve the project and one to deny it, did not pass due to a split vote to approve and a lack of a second to deny the project. The minutes from this meeting are attached.

The action being appealed is the denial of the Special Use Permit Revision by the Planning Commission.

The specific reasons for the appeal as stated in the attached appeal form are as follows:

"We complied with our limitation in presenting our case but "the public" did not. They spoke over 3 mins each & repeated themselves & were not stopped. This resulted in such extended time we were not able to properly respond to all the issues. The sound report did not appear to be understood correctly. There were no further motions after the deadlock. Therefore, we feel that our side of this issue was not properly heard."

**Response:** The applicants contend they were not given adequate time to speak at the hearing. The

hearing lasted for three hours and the Planning Commission gave the applicants multiple opportunities to present their project and respond to both public comments and Planning Commissioners' questions. The Planning Commission tried two motions, both of which failed, and after consulting with County Counsel the Commission decided not to attempt a third motion and left the decision as a denial due to lack of a passing motion.

The project is within the Cameron Estates Community Services District (CSD). CSD residents voiced opposition to the project and the Planning Commission made a motion to approve the project which included a reduction in the number of events, but the motion failed. A second motion was made to keep the existing Special Use Permit with the addition in Condition 1 allowing for wine tasting and a correction to Condition 2 to allow for wine tasting if it is considered a public event. The motion failed for lack of a second.

Planning's recommendation is to deny the appeal on the claim of inadequate due process. The minutes, staff report, and public comments included substantial information for the Planning Commission to consider. Based on that information, the Commission could not find that the Special Use Permit revision should be approved, resulting in a conclusion of denial. The appellant's (Olivo's) claim that their side of the issue was not properly heard may be their perception of the public hearing, but the meeting was conducted properly and all parties had sufficient opportunity to present information.

The appeal process authorizes the Board of Supervisors to consider all relevant issues related to the project appeal, including the approval, conditional approval, or denial of the Special Use Permit Revision.

Should the Board consider approval or conditional approval, staff provides the following alternative action:

- 1) Find the Special Use Permit Revision (S08-0012-R) is Categorically Exempt from CEQA pursuant to Sections 15301 and 15303 of the CEQA Guidelines; and
- 2) Approve the appeal in part, rejecting the portion of the appeal that claims inadequate due process, but conditionally approving the Special Use Permit Revision based on the Findings (Attachment C) and subject to the Conditions of Approval (Attachment B), with the following changes:
  - (a) Findings (Attachment C): Addition of new Finding, "Finding 3.4: The appeal is upheld in part, but rejected on the claim of inadequate due process based on the minutes, staff report, and public comments in the record. The part of the appeal that is upheld is the Planning Commission denial of the Special Use Permit Revision."; and
  - (b) Conditions of Approval (Attachment B): Removal of proposed Condition Number 9 as it was determined to be unenforceable ("9. Any guest(s) speaking in exceptionally loud voices or yelling when outside shall be reminded of the proximity to the nearby neighbors and asked to lower their voices. If the behavior continues the guest(s) shall be required to leave the premises.").

## **CLERK OF THE BOARD FOLLOW UP ACTIONS**

Provide copies of correspondence to Division.

## **CONTACT**

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Community Development Agency