

SONOMA COUNTY BOARD OF SUPERVISORS

Draft Conditions of Approval

Date: April 30, 2019 **File No.:** UPE15-0115
Applicant: Omar Mueller
Owner: Omar and Giovanna Mueller **APN:** 073-120-032
Address: 380 Bohemian Highway, Freestone

Project Description: Use Permit approval to add alcohol sales for retail sales (off-premise) to an existing retail shop selling cheese, salami, coffee and crepes to go, other local goods and dry goods on a 0.28 acre parcel.

Prior to commencing the use, evidence must be submitted to the file that all of the following non-operational conditions have been met.

HEALTH:

Septic:

1. Maintain the Annual Operating Permit for any package treatment plant, alternative (mound or pressure distribution) or experimental sewage disposal system installed per Sonoma County Code 24-32, and all applicable Waste Discharge Requirements set by the Regional Water Quality Control Board.
2. Use of the on-site wastewater disposal system shall be in accordance with the design and approval of the system.
3. All future sewage disposal system repairs shall be completed in the Designated Reserve areas and shall meet Class I Standards. Alternate reserve areas may be designated if soil evaluation and testing demonstrate that the alternative reserve area meets or exceeds all of the requirements that would have been met by the original reserve area. If wastewater ponds or a package treatment plant are needed, then a modification of the Use Permit may be required, as determined by PRMD.
4. Consistent with the small size and limited wastewater disposal capacity of this parcel, the range of items offered for sale on this site shall be limited in scope to cheese and salami, coffee and crepes to go and a small dry goods offering. The dry goods selection shall be limited to clothing, cheese, salami, olive oil, honey; kitchenware; and items specifically related to cheese, comfitures, and Sonoma County produced olive oil, honey and artisan products. Food cooked to order shall be prohibited, except for crepes and coffee for take-out.
5. Consistent with the small size and limited wastewater disposal capacity of this parcel, long customer visits and on-site consumption of food will be discouraged by not providing chairs, benches, tables, picnic tables, or individual counter space for customers inside of the building or commercial portion of the premises with the exception of the residence.

Consumer Protection:

6. Obtain and maintain all required Food Industry Permits from the Sonoma County Environmental Health Division prior to serving any food.

Water:

7. Connection shall continue to be made to public water.

8. A safe, potable water supply shall be provided and maintained.

Noise:

9. Noise shall be controlled in accordance with Table NE-2 (or an adjusted Table NE-2 with respect to ambient noise as described in General Plan 2020, Policy NE-1c,) as measured at the exterior property line of any affected residential or sensitive land use.

TABLE NE-2:Maximum Allowable Exterior Noise Exposures

Hourly Noise Metric¹, dBA	Daytime (7 a.m. to 10 p.m.)	Nighttime (10 p.m. to 7 a.m.)
L50 (30 minutes in any hour)	50	45
L25 (15 minutes in any hour)	55	50
L08 (5 minutes in any hour)	60	55
L02 (1 minute in any hour)	65	60
¹ The sound level exceeded n% of the time in any hour. For example, the L50 is the value exceeded 50% of the time or 30 minutes in any hour; this is the median noise level. The L02 is the sound level exceeded 1 minute in any hour.		

10. If noise complaints are received from nearby residents, and they appear to be valid complaints in PRMD’s opinion, then the applicant shall conduct a Noise Study to determine if the current operations meet noise standards and identify any additional noise Mitigation Measures if necessary. A copy of the Noise Study shall be submitted to the Project Review Health Specialist within sixty days of notification from PRMD that a noise complaint has been received. The owner/operator shall implement any additional Mitigation Measures needed to meet noise standards.
11. Special events are prohibited on this site due to the small size of the parcel and limited parking and wastewater disposal capacity.

Solid Waste:

12. All garbage and refuse on this site shall accumulate or be stored in non-absorbent, water-tight, vector resistant, durable, easily cleanable, galvanized metal or heavy plastic containers with tight fitting lids. No refuse container shall be filled beyond the capacity to completely close the lid. Garbage and refuse on this site shall accumulate or be stored for no more than seven calendar days, and shall be properly disposed of at a County Transfer Station or County Landfill before the end of the seventh day.

PLANNING:

“The conditions below have been satisfied BY _____ DATE _____

13. This Use Permit allows an existing 1,100 square foot retail shop to add retail sales (off-premise) of beer, wine and cider with no on site, consumption, tasting or events. The use shall be operated in accordance with the proposal statement and site plan located in File No. UPE15-0115 and as modified by these conditions. The permitted hours of operation for the retail store selling cheese are 9:00 AM - 6:00 PM. The previous Use Permit (UPE11-0073) allowed conversion of a detached garage/office into a single family dwelling, and the conversion of a former residence into

the subject retail space.

14. This Use Permit supersedes all prior use permits including UPE11-0073, all conditions of approval of UPE11-0073 are incorporated into this approval.
15. This use shall be constructed, maintained, and operated in conformance with all applicable county, state, and federal statutes, ordinances, rules, and regulations. A violation of any applicable statute, ordinance, rule or regulation shall be a violation of the Use Permit, subject to revocation or modification.
16. The applicant/owner shall be required to maintain in good condition all street frontage improvements along the property to the face of curb, including any landscape areas, sidewalks, or surface drainage contained within the public right-of-way. Landscape plans shall be subject to Design Review approval prior to issuance of grading or building permits. Landscaping shall consist of a mixture of trees, shrubs and groundcover in accordance with an approved landscape plan. All landscaping shall be automatically irrigated with primary irrigation lines and equipment located on private property. An Encroachment Permit and/or a Maintenance Agreement with the County shall be required prior to issuance of grading or building permits.
17. Customer and Site Visitor Management. The operator of the establishment shall take all reasonable steps, including contacting law enforcement in a timely manner, to prevent customers or other persons from engaging in objectionable activities on the premises, parking areas under the control of the operator, and other public or quasi-public areas within site of the premises during business hours.
18. One Year Review. A review of operations under this use permit shall be undertaken by Permit Sonoma Staff after one year of commencement of use. Notice of the Use Permit review shall be given to all owners of real property within three hundred feet (300') of the subject site plus any additional property owners who have previously requested notice. At least ten (10) days for comment shall be allowed. If it is determined that there is credible evidence of non-compliance with the Conditions of Approval or that operational activities constitute a public nuisance, the matter shall be referred to the Board of Zoning Adjustments for possible revocation or modification of Use Permit.
19. A sign shall be installed within the retail cheese shop that discourages the use of the community area across the street from the subject property. The sign is subject to review and approval by Permit Sonoma Planning staff prior to installation.
20. Trash, Litter, and Graffiti.
 - a. At least twice a week, the operator of the establishment shall remove trash, litter, and debris from the sidewalks adjoining the premises plus 10 feet beyond property lines as well as any parking lots under the control of the operator.
 - b. The operator of the establishment shall remove all graffiti from the premises and parking lots under the control of the operator within 72 hours of its application.
 - c. Trash can only be disposed in exterior dumpsters between the hours of 8:00 a.m. and 8:00 p.m.
21. Limitations on Product Sales and Display.
 - a. Refrigerated coolers, tubs, and other storage containers holding alcoholic beverages shall be equipped with locking mechanisms that shall be in place and used to restrict access by customers during the hours when sales of alcoholic beverages are prohibited by the California Department of Alcoholic Beverage Control regulations or license.
 - b. No beer or wine shall be displayed within five feet (5') of the cash register or front door of

the premises.

- c. No video or arcade type games are permitted on the premises. California State Lottery games are permitted.

22. Signs, Lighting, Postings.

Premises identification shall comply with Article V, Division C of [Chapter 13](#) of this code and the county's adopted road naming and addressing procedures and standards.

- a. A copy of the conditions of approval for the Use Permit shall be kept on the premises and shall be presented to any peace officer or any authorized county official upon request.
- b. Signs shall be posted on the inside of the premises stating that drinking on the premises or in public is prohibited by law.
- c. Required interior and exterior signs shall be posted in English and the predominate languages spoken by nearby community patrons.
- d. Premises shall be lit by high-pressure sodium or equivalent intensity fixtures. All site lighting and lighting for signs shall be down lit and directed away from residential uses.

23. Compliance with Other Requirements.

- a. The operator of the establishment shall comply with all local, state, and federal laws, regulations, or orders, including those of the California Department of Alcoholic Beverage Control, as well as any conditions imposed by permits issued in compliance with those laws, regulations, or orders.
- b. The operator of the establishment shall comply with all provisions of this code and conditions imposed by county-issued permits.

24. Staff Training: Within ninety (90) days from issuance of the Use Permit, all owners, managers, and employees selling alcoholic beverage at the establishment shall complete a certified training program in responsible methods and skills selling alcoholic beverages. The certified program shall meet the standards of the California Department of Alcoholic Beverage Control or other certifying/licensing body which the state may designate. New owners, managers and employees shall complete the training course within thirty (30) days of the date of ownership or employment. Records of successful completion for each owner, manager, and employee shall be maintained on the premises and presented upon request by a representative of the county.

25. The project shall comply with all provisions of the County Low Water Use Landscaping Ordinance.

26. All lighting and signs shall require final design review by PRMD or the Design Review Committee prior to issuance of building permits. Exterior lighting shall be low mounted, downward casting and fully shielded to prevent glare. Lighting shall not wash out structures or any portions of the site. Light fixtures shall not be located at the periphery of the property and shall not spill over onto adjacent properties or into the night sky. Flood lights are not permitted. All parking lot and street lights shall be full cut-off fixtures. Lighting shall shut off automatically after closing and security lighting shall be motion sensor activated. All exterior fixtures shall be limited to lamps (light bulbs not exceeding 100 watts. Signs shall meet all County sign standards for the Rural Commercial (RC) Zoning District.

27. All construction of new structures, exterior alterations to existing structures, or demolition of existing structures shall require Design Review by the Sonoma County Landmarks Commission prior to issuance of building permits.

28. Any proposed modification, alteration, and/or expansion of the use authorized by this Use Permit shall require the prior review and approval of PRMD or the Board of Zoning Adjustments, as appropriate. Such changes may require a new or modified Use Permit and additional

environmental review.

29. The Director of PRMD is hereby authorized to modify these conditions for minor adjustments to respond to unforeseen field constraints provided that the goals of these conditions can be safely achieved in some other manner. The applicant must submit a written request to PRMD demonstrating that the conditions is infeasible due to specific constraints (e.g. lack of property rights) and shall include a proposed alternative measure or option to meet the goal or purpose of the condition. PRMD shall consult with affected departments and agencies and may require an application for modification of the approved permit. Changes to conditions that may be authorized by PRMD are limited to those items that are not adopted standards or were not adopted as mitigation measures or that were not at issue during the public hearing process. Any modification of the permit conditions shall be documented with an approval letter from PRMD, and shall not affect the original permit approval date or the term for expiration of the permit.

The owner/operator and all successors in interest, shall comply with all applicable provisions of the Sonoma County Code and all other applicable local, state and federal regulations.

30. This permit shall be subject to revocation or modification by the Board of Zoning Adjustments if: (a) the Board finds that there has been noncompliance with any of the conditions or (b) the Board finds that the use for which this permit is hereby granted constitutes a nuisance. Any such revocation shall be preceded by a public hearing noticed and heard pursuant to Section 26-92-120 and 26-92-140 of the Sonoma County Code.

In any case where a Use Permit has not been used within two (2) years after the date of the granting thereof, or for such additional period as may be specified in the permit, such permit shall become automatically void and of no further effect, provided however, that upon written request by the applicant prior to the expiration of the two year period the permit approval may be extended for not more than one (1) year by the authority which granted the original permit pursuant to Section 26-92-130 of the Sonoma County Code.