

pbscommissions - Use Permit U\_2018-0022

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NOV 10 2020

**From:** Christina Velasquez <christinavelasquez100@gmail.com>  
**To:** Brent Schultz <schultzb@mendocinocounty.org>  
**Date:** 11/10/2020 11:37 AM  
**Subject:** Use Permit U\_2018-0022  
**Cc:** Julia Acker <ackerj@mendocinocounty.org>, Keith Gronendyke <gronendykek@...>

Planning & Building Services

Dear Mr. Schultz:

Please add this letter under the Public Comments Section for the above referenced Use Permit Hearing being held on November 12, 2020. I am addressing the conditions set forth in the Agenda Packet submitted by Mr. Keith Gronendyke, dated October 8, 2020. Although we are greatly in opposition to this use permit being passed, we respectfully request, should rule in favor of this use permit, you consider our requests for revisions to some of these conditions in order to better justify the required findings.

**General:**

Original Condition #1. "The permit shall become effective on the 11th day after Zoning Administrator approval and shall expire and become null and void at the expiration of two years after the effective date except where use of the property in reliance on such permit has been initiated prior to its expiration."

Revised Condition #1. "The permit shall become effective on the 11th day after Zoning Administrator approval and shall expire and become null and void at the expiration of two years after the effective date, unless extended through action of the Zoning Administrator upon the Applicant submitting an application to modify the existing use permit by extending its term."

*[Note: As shown above, we respectfully request that the exception at the end of the condition (i.e., "except where...") language be removed or revised so the use permit expires automatically unless extended as the result of a new public hearing process that is triggered by the Applicant submitting an application to modify the existing use permit by extending its term. We believe this to be a fair approach for this controversial use permit.]*

2. The use of the premises shall be established and maintained in conformance with the provisions of Title 20 of the Mendocino County Code unless modified by conditions of the use permit.
3. The application along with supplemental exhibits and related material shall be considered elements of this entitlement and that compliance therewith is mandatory, unless a modification has been approved by the Zoning Administrator.
4. This permit shall be subject to revocation or modification by the Zoning Administrator upon a finding of any 1 or more of the following grounds:
  - a. That such permit was obtained or extended by fraud.
  - b. That one or more of the conditions upon which such permit was granted have been violated.
  - c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance.

Any such revocation shall proceed as specified in Title 20 of the Mendocino County Code.

Original Condition #5. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.

Revised Condition #5 This permit is not to be issued without legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. The existing building and any accessory building shall be 30 feet from adjacent property boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different that that which is legally required by this permit, this permit shall become null and void.

*[Note: As shown above, we would respectfully request, this condition be removed, or amended to reflect the building is required to be built 30 feet from our property boundary.]*

6. This permit is subject to the securing of all necessary permits for the proposed development and eventual use from County, State and Federal agencies having jurisdiction. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.

#### **Cottage Industry Conditions:**

Original Condition #7. No more than three (3) employees may work on the premises at any given time, in addition to the members of the family residing on the premises.

Revised Condition #7. No more than three (3) employees may work on the premises at any given time, in addition to the members of the family residing on the premises. Employees or members of the family residing on the premises are limited to operating during the business hours of 9am to 5pm, Monday through Friday.

*[Note: As shown above, we would respectfully request the employees and/or family members residing on the premises only operate the business during the business hours of 9am and 5pm, Monday through Friday.]*

Original Condition #8. Applicant shall obtain appropriate building classification and final inspection for the existing structure used for auto repairs.

Revised Condition #8. Applicant shall obtain a commercial building classification and final inspection for the existing structure used for auto repairs. No further alteration to the building shall be permitted after the final building inspection. Applicant is explicitly prohibited from adding any plumbing to the building or connecting to a septic system. All current auto repair operations, whether commercial or personal/hobbyist in nature, shall cease in their entirety from the date the use permit is approved until the Applicant receives final approval from the Building Department that the existing building has met the permit conditions and requirements.

*[Note: As shown above, we would respectfully request this "appropriate building classification" be defined more specifically. We would also request no further alteration after the final building inspection, including an explicit prohibition on adding any plumbing to the building, be added to the language of this condition. We would further request that all current auto repair operations, whether commercial or personal/hobbyist in nature, cease in their entirety from the date the use permit is approved pending the Applicant receiving final approval from the Building Department that the existing building has met all commercial building classification requirements.]*

Original Condition #9. Aspects of the cottage industry, including equipment storage and parking related thereto, shall not exceed 2,000 sq. ft. Given the existing structure, the applicant is limited to 246 sq. ft. of outdoor parking for customer vehicles. Customer vehicle parking can be accommodated by any arrangement (e.g. parallel, angle, tandem), but a parking plan shall be provided, reviewed and approved by the Department of Planning and Building Services. Customer parking shall be permitted only in designated parking areas accessed from the driveway, and each parking space shall be surfaced with gravel, permeable pavers or other surfacing materials to encourage onsite infiltration of stormwater runoff.

a. For any vehicle that is leaking any type of liquid associated with a motor vehicle including but not limited to: motor oils, transmission fluids, antifreeze, brake fluid, power steering fluid, rear axle fluid, windshield washing fluid and gasoline, including diesel gasoline, a suitable drip pan capable of storing the amount and the specific type of liquid the vehicle is leaking shall be placed under the vehicle until said leak is repaired.

Revised Condition #9. Aspects of the cottage industry, including equipment storage and parking related thereto, shall not exceed 2,000 sq. ft. Given the existing structure, the applicant is limited to 246 sq. ft. of outdoor parking for customer vehicles. Customer and employee vehicle parking can be accommodated by any arrangement (e.g. parallel, angle, tandem), but a parking plan shall be provided, reviewed and approved by the Department of Planning and Building Services. Customer parking shall be permitted only in designated parking areas accessed from the driveway, and each parking space shall be surfaced with asphalt or cement, with culverts encompassing said asphalt or cement that will keep onsite stormwater runoff directed away from adjacent parcels.

a. For any vehicle that is leaking any type of liquid associated with a motor vehicle including but not limited to: motor oils, transmission fluids, antifreeze, brake fluid, power steering fluid, rear axle fluid, windshield washing fluid and gasoline, including diesel gasoline, a suitable drip pan capable of storing the amount and the specific type of liquid the vehicle is leaking shall be placed under the vehicle until said leak is repaired.

*[Note: As shown above, we would respectfully request that the Zoning Administrator reconsider the gravel and permeable pavers portion of this condition, and instead require asphalt or cement with culverts completely surrounding the asphalt or cement parking area to direct the stormwater away from adjacent parcels. Gravel or permeable pavers will permit leakage of gasoline, diesel, oils, hydraulic fluids, battery acids, etc., directly into the soil, greatly endangering all surrounding parcels' only water sources should such leakage not be discovered in a timely manner and a "suitable drip pan" not utilized soon enough. Given the documented fact that all wells in the neighborhood are very shallow, gravel or permeable pavers are too dangerous for the safety of adjacent parcels' only water sources.]*

10. One non-illuminated sign not to exceed four square feet shall be permitted. All signage shall require approval by the Planning Department prior to display. No permanent off-site signs advertising the site are authorized by this permit.

Original Condition #11. The sale of merchandise not produced on the premises (except mail order only businesses) shall be incidental to the merchandise or service produced by the cottage industry and shall not be advertised in any manner.

Revised Condition #11. The sale of merchandise not produced on the premises permitted only for automotive items and accessories directly incident to the repairs being made is permitted to be sold, including parts used in the repairs such as engine components. Sale of merchandise not associated with a repair being done on site, i.e. tires, windshield wiper blades, parts for customer-done repairs completed off-site prohibited. Only repair and maintenance items for the specific repair performed permitted, not vehicle customization items.

*[Note: As shown above, we would respectfully request this condition should be more specific to the Applicant and prohibit selling anything that is not explicitly permitted to be sold on the premises, i.e., only automotive items and accessories directly incident to the repairs being made should be sold, including parts used in the repairs like engine components. We would request prohibition of the sale of accessories not associated with a repair being done on site - repair and maintenance items for the specific repair performed only, not vehicle customization items.]*

Original Condition #12. Applicant shall not have customers at the site; all pick-up and delivery of customer vehicles and monetary transactions shall be conducted off-premises.

Revised Condition #12. Applicant shall not have customers at the site; all pick-up and delivery of customer vehicles and monetary transactions shall be conducted off-premises. Applicant is prohibited from having hobbyists and friends from being on site for non-commercial repair activities. Applicant shall be required to create and maintain a daily log of all visitors to the premises as well as all employees on the premises and provide them to the County. Applicant shall be required to maintain security cameras, with views of the building itself (not just outward on the property), and the Applicant shall keep the video files, and provide them to the County according to a schedule determined by the Planning & Building Services.

*[Note: As shown above, we would respectfully request this condition be modified to prohibit hobbyists and friends from being on site for non-commercial repair activities. We would request the Applicant be required to create and maintain a daily log of all visitors to the premises as well as all employees on the premises and provide them to the County. We would request the Applicant maintain security cameras, with views of the building itself (not just outward on the property), and the Applicant keep the recorded video files, and provide them to the County.]*

Original Condition #13. All external lighting shall be shielded and downcast to prohibit light from being cast beyond the property boundaries. Outdoor lighting shall be turned off at 7:00 p.m. in the evenings and not be turned back on until the following day after 6:00 a.m. in the morning. (Twenty-four hour security lighting would be exempt from this time requirement; however said exterior security lighting installed on the property shall utilize motion-sensor activation.) All lighting along the property boundaries shall be setback a minimum of 20 feet from all property lines.

Revised Condition #13. All external lighting shall be shielded and downcast to prohibit light from being cast beyond the property boundaries. Outdoor lighting shall be turned off at 7:00 p.m. in the evenings and not be turned back on until the following day after 8:00 a.m. in the morning. Any external lighting, security or otherwise, shall be installed no higher than 7 feet off the ground to ensure an 8 foot solid fence will adequately block such lighting from being seen by adjacent parcel (s). Applicant shall construct an 8-foot solid fence along the southern boundary line to prevent any such lighting from being seen by adjacent parcel(s).

*[Note: As shown above, we would respectfully request the Applicant be required to construct an 8 foot solid fence along our shared property boundary to prevent any such lighting from being seen by our parcel. We request the outdoor lighting not be turned back on until 8:00 a.m. in the mornings. We request that any lighting, security or otherwise, be installed no higher than 7 feet off the ground to ensure that the 8 foot solid fence would help to block such lighting from being seen from our parcel. This would also be another compelling reason to have the property boundaries re-surveyed.]*

14. Best management practices regarding the proper storage and handling of hazardous material and hazardous wastes should be employed. A Hazardous Materials Management Plan is required if any hazardous material/waste on-site exceeds 55 gallons (liquid), 500 lbs. (solids), or 200 cubic feet (gasses) in quantity.

**Transportation:**

Original Condition #15. A commercial road approach shall be constructed onto Little Lake Road (CR 408) from W Road (Private), in accordance with Mendocino County Road and Development Standards No. A51 B, or as modified by applicant and approved by Department of Transportation staff during field review, to be paved with asphalt, concrete or comparable surfacing to the adjacent road. Concrete driveways shall not be permitted.

Revised Condition #15. A commercial road approach shall be constructed onto Little Lake Road (CR408) from W. Road (Private), in accordance with Mendocino County Road and Development Standards No. A51B, and paved with asphalt surfacing to the adjacent road. Concrete driveways shall not be permitted. Applicant shall have a T-turnaround added to Prairie Flower Road (Private) per the applicable County road standard as well as improvement of the entirety of Prairie Flower Road (Private) from W. Road (Private) up to the County road standard so the width of the land of travel is wide enough to accommodate large trucks and heavy equipment simultaneously with oncoming neighborhood vehicles. Applicant shall be required to either re-gravel Prairie Flower Road (Private) every six months with 1.5 inches to 2 inches of road gravel, or be required to pay all surrounding parcels on Prairie Flower Road maintenance obligations to the Road Association.

*[Note: As shown above, we respectfully request the commercial road approach be surfaced with asphalt surfacing instead of gravel since the gravel that was put there late in 2019 has or is already washed/ing away in large part due to the great number of heavy trucks and equipment traveling to the Applicants site - daily. We request, although our small country lane is not a County maintained road, it currently is being utilized as a County commercial road for the Applicant's business purposes, and as such we would request adding a T-turnaround per the applicable County road standard as well as improvement of the entire private road up to the applicable County road standard so the width of the land of travel is wider to accommodate the Applicant's daily large truck deliveries, large tow trucks, and heavy equipment simultaneous with any neighborhood vehicle(s) coming in the opposite direction. The blind turns and the narrow width of the road currently prevent any neighborhood vehicles from traversing our small country lane in the opposite direction when these large trucks/equipment are coming to the Applicant's site. We would request, due to the amount of traffic the Applicant currently has coming to his site, the Applicant be required to either maintain the road every six months with 1.5"-2" of road gravel or be required to pay all surrounding parcels (on Prairie Flower Road) maintenance obligations to the Road Association.]*

16. The permit holder shall obtain an encroachment permit from the Mendocino County Department of Transportation for any work within County rights-of-way.

**Noise:**

Original Condition #17. No long term idling or excessive revving of engines shall be allowed in the parking area.

Revised Condition #17. No idling or excessive revving of engines shall be allowed in the parking area. (OR) No long term idling or excessive revving of engine for longer than 5 minutes in the parking area.

*[Note: As shown above, we would respectfully request "long term idling" or "excessive" be defined or prohibited altogether, and a maximum number of minutes applied, since it can't be monitored effectively.]*

Original Condition #18. Excessive noise, as identified in Appendix C - Exterior Noise Limits, shall be limited to the hours of 8:00 a.m. through 8:00 p.m.

Revised Condition #18. Excessive noise, as identified in Appendix C - Exterior Noise Limits, shall be prohibited.

*[Note: As shown above, we would respectfully request this condition be revised to prohibit all excessive noise.]*

Original Condition #19. The use of air driven power tools shall be prohibited outdoors.

Revised Condition #19. The use of air driven power tools shall be prohibited outdoors, or inside the building unless the shop doors are closed at the time of operation. Applicant shall be required to insulate the doors, windows, walls and ceiling of the building with high-density sound insulation to bring STC levels at or below 40dB at any time any or all equipment or processes within the building are operating. Applicant shall have compliance verified by a qualified inspector with appropriate testing equipment or processes dB levels, at or below 40 dB when building doors are closed, before the permit can be final and operations permitted to begin.

*[Note: As shown above, we would respectfully request this condition include a prohibition on the use of air-driven power tools outside or inside the building unless the shop doors are closed at the time. We would request a requirement for high-density sound insulation (so STC levels are below 40 dB at any time) be installed on the building's ceiling, doors, walls and windows. Ideally, the requirement should result in minimal increase in noise outside the building when all equipment or processes inside are being operated. This should be tested and compliance verified by a qualified inspector and appropriate testing equipment before the permit can be final and operations permitted to begin.]*

Original Condition #20 . No equipment or process used shall create noise, vibration, glare, fumes, dust, odors, smoke, electrical interference or other impacts in excess of those customarily generated by residential uses in the neighborhood.

Revised Condition #20. No equipment or process used shall create noise, vibration, glare, fumes, dust, odors, smoke, electrical interference or other impacts exceeding 40 dB. Applicant shall utilize a high-powered vacuum system to keep fumes, odors, and smoke completely contained in and around the building and any parking areas. Applicant shall keep Prairie Flower Road sufficiently graveled, every six months, to prevent dust from business traffic from adversely affecting adjacent parcels with excessive dust.

*[Note: As shown above, we would respectfully request this condition define what the specific threshold for a noise level that exceeds "what is customarily generated by residential uses in the neighborhood." With respect, this condition is too vague as currently written to have any meaning or enforceability.]*

#### **Air Quality and Hazardous Materials Conditions:**

21. Stored hazardous materials in excess of fifty-five gallons of liquids, 200 cubic feet of gases, or 500 pounds of solids shall require review by the Mendocino County Environmental Health Department. More information can be found at: <http://cers.calepa.ca.gov>.

22. This project is subject to District Regulation 1 regarding air quality permits. The permit holder

shall obtain an 'Authority to Construct' permit from the Mendocino County Air Quality Management District (MCAQMD) prior to beginning construction and/or installation of any equipment within the shop. If equipment has already been installed, MCAQMD shall be contacted prior to continued use of said equipment.

23. Any stationary on-site diesel internal combustion engines fifty horsepower or greater (i.e. large power generators or pumps), or any propane or natural gas engines 250 horsepower or greater, shall require a permit from MCAQMD.

24. The applicant shall register any portable diesel powered equipment used on-site with the State Portable Equipment Registration Program (PERP), or obtain necessary permits from MCAQMD.

25. Per MCAQMD, heavy duty truck idling and off-road diesel equipment, or other diesel idling is limited to less than five (5) minutes.

26. The project is subject to the requirements of Regulation 1, Rule 492 (National Emission Standards for Hazardous Air Pollutants) , of MCAQMD. The applicant shall (per Part 61, Chapter 1, Title 40, of the Code of Federal Register) submit proof of asbestos inspection to MCAQMD prior to being issued a Demolition/Renovation Permit. Additionally, the applicant shall notify MCAQMD prior to removal of asbestos-containing materials and submit payment of any fees, if applicable.

27. Any stationary on-site internal combustion engines over 50 horsepower (i.e. large power generator or pumps) may require a permit from MCAQMD, depending on fuel source and level of operation. Engines less than 50 horsepower are subject to registration by MCAQMD for emissions inventory purposes. The Applicant shall contact MCAQMD prior to use of any such engines. Additionally, a list of on-site internal combustion engines shall be provided to the Department of Planning & Building Services.

Original Condition #28. No painting shall be conducted on-site. Should the applicant wish to conduct on-site painting, approval from the MCAQMD shall be required. The applicant shall adhere to all applicable requirements established by MCAQMD regarding on-site painting.

Revised Condition #28. No painting shall be conducted on-site.

*[Note: As shown above, we respectfully request no painting shall be conducted on-site whatsoever, even if MCAQMD would have approved them. We are seriously concerned with our family's respiratory health, with potential fumes or gasses from automotive painting creating a serious detriment to residents' respiratory health and well-being.]*

Original Condition #29. Per comments provided by MCAWMD, the Applicant shall not have customers on-site. Pick-up and delivery of customer vehicles and monetary transactions shall be conducted off-premises. Furthermore, the Applicant is limited to no more than three (3) delivery vehicles accessing the premises per day.

Revised Condition #29. Per comments provided by MCAWMD, the Applicant shall not have customers or visitors on-site. Only employees during normal business hours. Pick-up and delivery of customer vehicles and monetary transactions shall be conducted off-premises. Furthermore, the Applicant is limited to no more than two (2) delivery vehicles, tow trucks or otherwise, accessing the premises per day. A daily tracking log of people on the premises and deliveries to the premises shall be provided to the County. Recorded video of the site shall be maintained and provided to

the County for verification purposes. Applicant shall pay the County fees for all reasonable monitoring, record-keeping, and other compliance activities.

*[Note: As shown above, we would respectfully request this condition be strengthened to not allow customers or other visitors except employees during normal business hours. Also, reducing the delivery vehicles (tow truck deliveries or otherwise) will also reduce the amount of noise, vibration, glare, fumes, dust, odors and smoke to our tiny neighborhood should this use permit be passed. A daily tracking log of people on the premises and deliveries to the premises should be required and provided to the County. Recorded video of the site would be good, which should be maintained and provided to the County for verification purposes. Applicant should pay the County fees for all reasonable monitoring, record-keeping, and other compliance activities.]*

30. Applicant shall obtain any and all appropriate certifications and licenses deemed necessary per the MCAQMD.

**Cultural Resources:**

31. If any archaeological sites or artifacts are discovered during site excavation or construction activities, the applicant shall cease and desist from all further excavation and disturbances within 100 feet of the discovery, and make notification of the discovery to the Director of the Department of Planning and Building Services. The Director will coordinate further actions for the protection of the archaeological resources in accordance with Section 22.12.090 of the Mendocino County Code.

**Building Inspection:**

Original Condition #32. Prior to the issuance of a business license for the cottage industry auto repair facility, a building permit shall be obtained from the Mendocino County Building Department to convert the existing accessory structure from a class K limited density rural dwelling construction type to a fully permitted commercial structure that fully complies with all required building code requirements associated with commercial structures. Proof of this requirement shall also be submitted to the Planning Department.

Revised Condition #32. Prior to issuance of a business license for the cottage industry auto repair facility, a building permit shall be obtained from the Mendocino County Building Department to convert the existing accessory structure from a class K limited density rural dwelling construction type to a fully permitted commercial structure that fully complies with all required commercial building code requirements associated with commercial structures, including sound insulation sufficient to prevent sound transmission above 40 dB to adjacent parcels. County Building Inspector shall verify this commercial building code compliance as well as compliance with soundproofing material to reduce sound transmission to 40 dB or lower during the building inspection process and before the building permit is finalized (per #19). Applicant shall be required to have sound monitoring equipment (per #11) inspected during the building inspection process and before the building permit is finalized. Applicant shall be required to plant sound-dampening landscaping in addition to an 8 foot solid fence erected on the south property boundary line to also prevent sound transmission to adjacent parcel(s) before the building permit is finalized. Applicant is prohibited from adding any plumbing to the existing building before or after the conversion. If the County Building Inspector finds the building was erected too close to the adjacent parcel to the south, Applicant shall be required to relocate the building before building permit is finalized.

*[Note: As shown above, we would respectfully request this be strengthened to also prohibit things that conflict with the application but which would potentially be acceptable under a normal building*

*inspection, including a prohibition on adding any plumbing to the existing building before or after the conversion. We request the Building Inspector verify this soundproofing material during the building inspection process and before the building permit is finalized. We would request the Building Inspector perform testing of the dB levels while all equipment in the building is operating with doors closed during the building inspection process and before the building permit is finalized (per #19). We further request required equipment like sound monitoring equipment (per #11) be inspected during the building inspection process and before the building permit is finalized. We also would respectfully request in addition to the Applicant erecting an 8 foot solid fence along our shared property boundary to dampen the noise of the commercial business, and the Applicant be required to plant sound-dampening landscaping before the building permit is finalized. Lastly, we would request the building be relocated, based upon our land survey performed last year as we wouldn't want the Applicant to be required to convert the existing building since it isn't in the correct location.]*

Original Condition #33. If any sinks, parts washing facilities, or bathroom facilities are added to the accessory structure, the Environmental Health Department of Mendocino County shall be contacted to determine the correct method to dispose of such waste.

Revised Condition #33. No sinks, parts washing facilities, or bathroom facilities shall be added to the existing structure or any accessory structures. If Applicant wishes to add any plumbing, septic system, or related building component to the existing or any accessory structures, Applicant shall not only obtain Health Department approval, but shall submit an application to modify use permit through a public process if any plumbing or septic system is requested to be added.

*[Note: As shown above, we respectfully request this condition be removed or revised to prohibit the addition of plumbing and these types of building components. If the Applicant wishes to add them, he needs to not only obtain Health Department approval of the appropriate plumbing, septic, or related building components, but an analysis of the impacts of the septic system on the pygmy forest per the comment letter from Fish & Wildlife. We request the Applicant have to apply to modify his use permit through a public process if he adds plumbing since he explicitly excluded it from his application and the environment analysis was premised on it not being included. We further request it not only be in the condition of the use permit itself, but also be added to the CEQA document as a mitigation measure.]*

Additional Condition #34. Applicant shall be required to maintain recordkeeping logs, monitoring equipment, data retention, periodic reporting, and compliance inspections to allow the County Building Inspector to ensure compliance with the building code requirements and any specific planning-related permit conditions that were added during the permit review and approval process. Applicant shall be required to pay the County reasonable fees to recover the compliance costs.

*[Note: As shown above, we respectfully request the County require logs, monitoring equipment, data retention, periodic reporting, and compliance inspections to allow the County Building Inspector to ensure compliance with the building code requirements and any specific planning-related permit conditions that were added during the permit review and approval process as well as the requirement for the Applicant to pay the County reasonable fees to recover the County's compliance costs.]*

Sincerely,

Ted Velasquez & Christina Velasquez

Property owners of 24191 Prairie Flower Road, Mendocino