



## City of Sonoma Planning Commission **AGENDA**

*Regular Meeting of May 8, 2014 -- 6:30 PM*  
*Community Meeting Room, 177 First Street West*  
*Sonoma, CA 95476*

Meeting Length: No new items will be heard by the Planning Commission after 10:30 PM, unless the Commission, by majority vote, specifically decides to continue reviewing items. If an item is not heard due to the length of the meeting, the Commission will attempt to schedule a special meeting for the following week. If a special meeting is necessary, potential dates will be established at the close of this meeting, and a date set as soon as possible thereafter.

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**CALL TO ORDER** – Chair, Mathew Tippell

Commissioners: Gary Edwards  
Robert Felder  
Mark Heneveld  
Matt Howarth  
Chip Roberson  
Bill Willers  
James Cribb (Alternate)

*Be Courteous - **TURN OFF** your cell phones and pagers while the meeting is in session.*

### PLEDGE OF ALLEGIANCE

**COMMENTS FROM THE PUBLIC:** Presentations by audience members on items not appearing on the agenda.

**MINUTES:** Minutes from the meeting of April 10, 2014.

### CORRESPONDENCE

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#### ITEM #1 – PUBLIC HEARING

**REQUEST:**

Appeal of the interpretation of planning staff regarding whether the issuance of a Type 67 ABC License applied for by the Cottage Inn & Spa, which would allow the sale of bottles of wine to registered guests of the establishment but not to the general public, is consistent with the Development Code.

**Appellant:**

Jon Diederich and Joseph Costello

**Staff:** David Goodison

**Project Location:**

302 and 310 First Street East

**General Plan Designation:**

Medium Density Residential (MR)

**Zoning:**

**Planning Area:** Northeast Area

**Base:**

Medium Density Residential (R-M)

**Overlay:** Historic (/H)

**RECOMMENDED ACTION:**

Uphold staff interpretation.

**CEQA Status:**

Categorically Exempt

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#### ITEM #2 – DISCUSSION

**ISSUE:**

Discussion of the Tree Ordinance and policies for the on-going protection of trees designated for protection in new development.

**Staff:** David Goodison

**RECOMMENDED ACTION:**

Discuss.

**CEQA Status:**

Not applicable.

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### ISSUES UPDATE

**COMMENTS FROM THE COMMISSION**

**COMMENTS FROM THE AUDIENCE**

**ADJOURNMENT**

I do hereby certify that a copy of the foregoing agenda was posted on the City Hall bulletin board on May 2, 2014.

CRISTINA MORRIS, ADMINISTRATIVE ASSISTANT

**Rights of Appeal:** Any decision of the Planning Commission may be appealed to the City Council. Appeals must be filed with the City Clerk within fifteen (15) calendar days following the Planning Commission's decision, unless the fifteenth day falls on a weekend or a holiday, in which case the appeal period ends at the close of the next working day at City Hall. Appeals must be made in writing and must clearly state the reason for the appeal. Appeals will be set for hearing before the City Council on the earliest available agenda. A fee is charged for appeals.

*Copies of all staff reports and documents subject to disclosure that relate to any item of business referred to on the agenda are available for public inspection the Monday before each regularly scheduled meeting at City Hall, located at No. 1 The Plaza, Sonoma CA, (707) 938-3681. Any documents subject to disclosure that are provided to all, or a majority of all, of the members of the Planning Commission regarding any item on this agenda after the agenda has been distributed will be made available for inspection at the Administrative Assistant office, No. 1 The Plaza, Sonoma CA during regular business hours.*

*If you challenge the action of the Planning Commission in court, you may be limited to raising only those issues you or someone else raised at the public hearing described on the agenda, or in written correspondence delivered to the Administrative Assistant, at or prior to the public hearing.*

*In accordance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk (707) 933-2216. Notification 48-hours before the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.*

## MEMO

**To:** Planning Commission  
**From:** Planning Director Goodison  
**Re:** Appeal of a staff interpretation regarding the issuance of a Type 67 ABC License for the Cottage Inn & Spa (302 and 310 First Street East)

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### Background

The Cottage Inn & Spa is a Bed and Breakfast/Vacation Rental located at 302 and 310 First Street East, within an area having a zoning designation of Medium Density Residential (R-M). Sometime in 2013, the owner of the Cottage Inn & Spa applied for a Type 67 ABC license. If issued by the Department of Alcoholic Beverage Control (ABC), this license would authorize the owner to sell bottles of wine to registered guests of the facility, with the cost billed as an item of the stay. According to the property owner, he is seeking this license as a marketing tool. For example, this license would enable him to offer a “Valentines” package that would include flowers and bottle of sparkling wine. The ABC’s description of this license type is as follows:

*Type 67: BED AND BREAKFAST INN - Authorizes the sale of wine purchased from a licensed winegrower or wine wholesaler only to registered guests of the establishment for consumption on the premises. No beer or distilled spirits may be on the premises. Wine shall not be given away to guests, but the price of the wine shall be included in the price of the overnight transient occupancy accommodation. Removal of wine from the grounds is not permitted. Minors are allowed on the premises.*

The license application was routed to the Police Department and to the Planning Department. As part of the ABC’s licensing process, verification must be provided by the local jurisdiction that the license allowance is consistent with local zoning regulations. After considering the matter, staff concluded that that the allowance was consistent with the City’s zoning regulations and provided that determination to the ABC. Another element of the ABC licensing process is neighbor notification of pending applications. Through this process, staff received inquiries about the proposal from nearby residents Joseph Costello and Jon Diederich. Mr. Deiderich wrote to protest the finding that the issuance of the license was consistent with Sonoma’s zoning regulations and requested a formal interpretation, which staff provided in a letter dated March 11, 2014. (Mr. Deiderich’s letter and staff’s response are referenced as Exhibits “A” and “B” of the appeal.) Mr. Deiderich and Mr. Costello, representing the “North of the Mission Neighborhood Association,” subsequently filed an appeal of staff’s interpretation, pursuant to section 19.02.030 of the Development Code.

### Interpretation and Appeal Provisions

As set forth in section 19.02.020 of the Development Code (Rules of Interpretation), the initial responsibility for interpreting the provisions of the Code lies with the Planning Director. In Section 19.02.030 (Procedures for Interpretation), a process is set forth in which an official interpretation may be requested and appealed. If appealed, the interpretation is reviewed by the Planning Commission. The decision of the Planning Commission on the appeal of interpretation may in turn be appealed to the City Council.

## Appeal

On March 24, 2014, Joseph Costello and Jon Deiderich, of the “North of the Mission Neighborhood Association” filed an appeal of planning staff’s interpretation finding that the issuance of a Type 67 ABC license for the Cottage Inn & Spa was consistent with zoning regulations. In support of the appeal, the appellants make reference to Mr. Diederich’s letter of February 20, 2014 (Exhibit “A”). In this letter, Mr. Diederich contends that the issuance of a Type 67 license would authorize a retail use, an activity that is not allowed in the Medium Density Residential zone. Staff’s analysis is detailed in the letter of March 11, 2014 (Exhibit “B”). On the particular point of whether the activity authorized by a Type 67 ABC license constitutes a retail use, staff refers to the definition of General Retail as set forth in section 19.92.020 of the Development Code, which reads as follows:

*“General retail” means stores and shops selling many lines of merchandise.*

The Development Code definition then goes on to list a variety of examples of “General Retail.” In staff’s view, an allowance to sell bottles of wine to registered guests of the Cottage Inn & Spa as part of the lodging accommodation would not authorize the bed and breakfast to operate as “a store or a shop”, since the general public would not be able to come to the Cottage Inn & Spa and purchase wine. Therefore, the activity authorized by the Type 67 license does not fall within the Development Code’s definition of “General Retail.” In the letter of March 11<sup>th</sup>, staff also addresses the questions of whether the allowance would constitute an intensification of use and whether it should be considered an “accessory use.” To summarize, it is staff’s finding that the limited allowance afforded by the Type 67 ABC license would not change the existing intensity of the use of the property or alter its land use characteristics in any noticeable way.

## Recommendation

Staff recommends that the Planning Commission deny the appeal.

### Attachments:

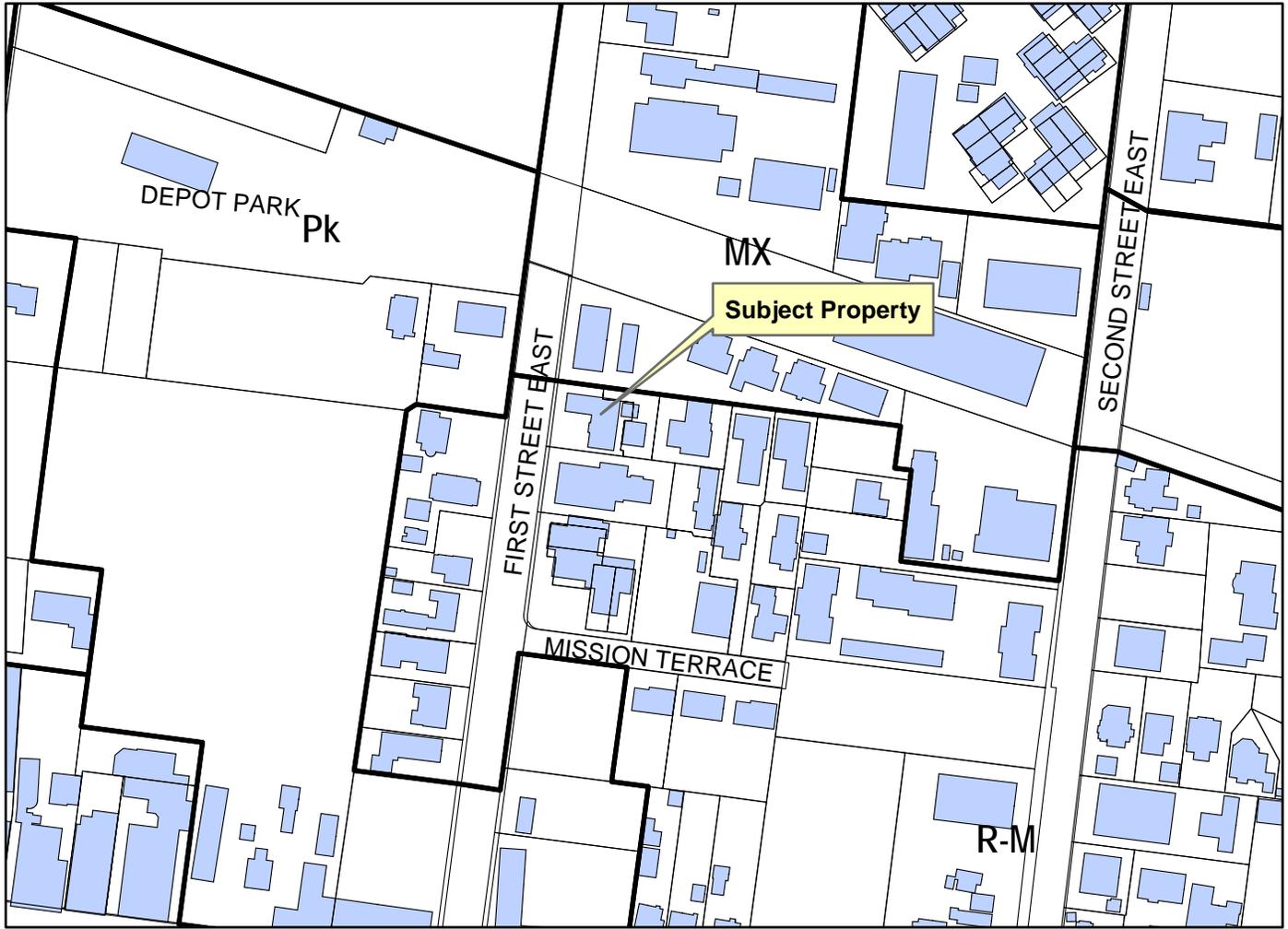
1. Location Map
2. Appeal (with Exhibits)

cc: Zac Weinberg  
The Cottage Inn & Spa  
310 First Street East  
Sonoma, CA 95476

Jon Deiderich  
140 Mission Terrace  
Sonoma, CA 95476

Joseph Costello  
128 Mission Terrace  
Sonoma, CA 95476

# Vicinity Map

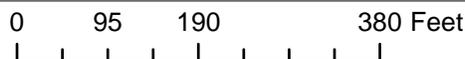
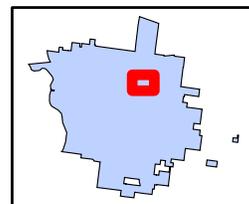


## Project Summary

<i>Project Name:</i>	Cottage Inn & Spa ABC License Appeal
<i>Property Address:</i>	302 and 310 First Street East
<i>Applicant:</i>	Zak Weinberg
<i>Property Owner:</i>	Two Feet Up Hospitality Inc.
<i>General Plan Land Use:</i>	Medium Density
<i>Zoning - Base:</i>	Medium Density
<i>Zoning - Overlay:</i>	Historic
<i>Summary:</i>	Appeal of the interpretation of planning staff regarding the issuance of a Type 67 ABC License.

## Zoning Designations

- R-HS Hillside Residential (1 D.U./10 acres, maximum)
- R-R Rural Residential (2 D.U./acre, maximum)
- R-L Low Density Residential (2-5 D.U./acre)
- R-S Sonoma Residential (3-8 D.U./acre)
- R-M Medium Density Residential (6-10 D.U./acre)
- R-H High Density (9-12 D.U./acre)
- R-O Housing Opportunity (15-20 D.U./acre)
- R-P Mobile Home Park (7 D.U./acre, maximum)
- MX Mixed Use (12 D.U./acre, maximum)
- C Commercial (15 D.U./acre, maximum)
- C-G Commercial-Gateway (15 D.U./acre, maximum)
- W Wine Production
- P Public Facility
- Pk Park
- A Agriculture



1 inch = 200 feet

# City of Sonoma Appeal Application Form

For City Use

Date Received

By \_\_\_\_\_



- A copy of the rights of appeal and the City's appeal procedures may be found on the reverse of this form
- The fee to file an appeal is **\$300.00** and must accompany this form
- Appeals must be filed with the **City Clerk** within **fifteen (15) calendar days** of the action
- Appeals must address issues raised or decisions made at previous hearings. Appeal hearings cannot be used as a forum to introduce new issues
- In order for your appeal to be valid this form must be filled out completely.

Feel free to attach additional sheets or supporting documentation as may be necessary.

## APPELLANT INFORMATION: (Please Print)

Name: Joseph L. Costello

Name: Jon Diederich

Address: 128 Mission Terrace

Address: 140 Mission Terrace

Phone: 707-938-8180

Phone: 707-933-1899

I/We the undersigned do hereby appeal the decision of the:

Planning Commission

Design Review Commission

City Planner or Department Staff

Other: \_\_\_\_\_

Regarding: Cottage Inn & Spa  
(Title of project or application)

Located at: 302-310 First Street East  
(Address)

Made on: March 11, 2014  
(Date decision was made)

I/We hereby declare that I/We are eligible to file an appeal because:  
(Refer to Section 19.84.30-A, Eligibility, on the reverse)

person(s) affected by interpretation of Planning Director

The facts of the case and basis for the appeal are:

see Attachments A & B

I/We request that the Appeal Body take the following specific action(s):

reverse the Planning Director's interpretation and initiate a community dialogue on regulating the sale of alcoholic beverages at Bed and Breakfasts including non conforming uses in residential zoning districts

Signed:

Signature

03/21/14  
Date

Signature

03/21/14  
Date



ATTACHMENT A

RECEIVED

FEB 21 2014

CITY OF SONOMA

February 20, 2014

David Goodison, Planning Director  
City of Sonoma  
No. 1 the Plaza  
Sonoma, CA 95476

Re: Cottage Inn & Spa (302 & 310 First Street East)

Many of our members have received mailed notices that the Cottage Inn & Spa has applied to California Alcohol Beverage Control for a License Type:67-SPECIAL ON-SALE WINE BED AND BREAKFAST INN. Such a license would allow the retail sale of wine to guests at the Bed and Breakfast. Protests are to be filed within 30 days (03/05/14) of the mailing.

It is our belief that retail sales are not permitted in a Residential-Medium Density zoning district (SMC 19.10.050 C & Table 2-1) nor does the applicant's Conditional Use Permits (05/13/09 & 09/09/99) allow for uses other than a B&B (SMC 19.50.030).

We are informed that the Planning Department has taken the position that the sale of wine to guests is an "accessory use" (SMC 19.92.020 A) and not inconsistent with zoning regulations or the use permits. From our perspective, such a position undermines the existing zoning regulations and ignores the plain language of the use permits. We believe that a new use requiring a license from a State agency is more than just an "accessory use" and that the words "no other uses" found in the use permits exclude any "assessory use".

Finally, we are surprised by and disappointed in the Planning Department's believed position and are writing to request a reconsideration of the same. Please accept this letter as a request for an official interpretation (SMC 19.02.030 A).

Thank you for your attention.

Respectfully submitted.

Jon Diederich, President

**NORTH OF THE MISSION NEIGHBORHOOD ASSOCIATION**  
140 Mission Terrace  
SONOMA, CA. 95476

# City of Sonoma

Sonoma Sister Cities:

No. 1 The Plaza  
 Sonoma, California 95476-6618  
 Phone (707) 938-3681 Fax (707) 938-8775  
 E-Mail: cityhall@sonomacity.org



Aswan, Arab Republic of Egypt  
 Chambolle-Musigny, France  
 Greve in Chianti, Italy  
 Kaniv, Ukraine  
 Patzcuaro, Mexico

March 11, 2014

John Diederich  
 140 Mission Terrace  
 Sonoma, CA 95476

Re: Interpretation regarding a Type 67 ABC License requested by the Cottage Inn and Spa, located at 302-310 First Street East

Dear Mr. Diederich:

Thank you for your letter of February 20, 2014. We understand that you are requesting an official interpretation of the Development Code, pursuant to section 19.02.030 (Procedures for Interpretation), with regard to the Planning Department's determination that the issuance of a Type 67 License by the State Department of Alcoholic Beverage Control (ABC) for the Bed and Breakfast/vacation rental units at 302-310 First Street East is neither prohibited by the Development Code nor subject to Use Permit review.

As noted in your letter of February 20, 2014, the ABC is considering the issuance of a Type 67 License to the Cottage Inn and Spa, which would allow them to sell bottles of wine to registered guests of that facility. The Police Department and the Planning Department have reviewed the proposal and neither Department objects to the issuance of the license. It is the determination of the Planning Department that the issuance of such a license is not prohibited by the Development Code and is not subject to Use Permit review, because the allowance authorized by this license is consistent with the authorized use of the property as a bed and breakfast inn/vacation rental. That determination is based on the following factors:

1. The Type 67 License is quite limited in its scope, allowing only for the following:

*Type 67: BED AND BREAKFAST INN - Authorizes the sale of wine purchased from a licensed winegrower or wine wholesaler only to registered guests of the establishment for consumption on the premises. No beer or distilled spirits may be on the premises. Wine shall not be given away to guests, but the price of the wine shall be included in the price of the overnight transient occupancy accommodation. Removal of wine from the grounds is not permitted. Minors are allowed on the premises.*

This ABC license does not provide any allowance or authorization for the sale of alcohol to the general public. It is limited to registered guests of the facility.

2. This allowance is not considered to be "General Retail" as defined in section 19.92.020 of the Development Code, because an allowance to sell bottles of wine to registered guests would not authorize the bed and breakfast to operate as "a store or a shop," which is how the term "General Retail" is defined in the Development Code (section 19.92.020).

3. Section 19.92.020 of the Development Code defines “intensification of use” as follows: *A change in the use of a structure or site, where the new use is required by Chapter 19.48 SMC, Parking and Loading Standards, to have more off-street parking spaces than the former use; or a change in the operating characteristics of a use (for example, hours of operation), which generate more activity on the site.* The allowance authorized by this ABC license does not change the parking standards that apply to the existing use, nor does it intensify any of operating characteristics of the existing use in a manner that would result in increased activity on the site.
4. There is no requirement in the Development Code that the issuance of such a license triggers Use Permit review. While certain activities subject to use permit review, such as a restaurant or a bar, may also require an ABC license in order to operate, it is the activity that is subject to use permit review, not the requirement for an ABC license. For example, a Wholesaler ABC license may be issued to a wine broker operating a business/administrative office in a commercial zoning district with no use permit requirement and a new restaurant would be subject to use permit review even if it did not serve alcohol.

Based on the factors cited above, the Planning Department finds that the issuance of a Type 67 ABC license allowing the owners of the subject business to sell bottles of wine to registered guests, strictly in conjunction with a room rental, does not introduce a new activity to the site, as this allowance is entirely ancillary to the bed and breakfast use. This allowance does not constitute a “use” pursuant to the definition of that term in section 19.92.020 of the Development Code, which reads as follows: *“Use” means the purpose for which land or a structure is designed, arranged, intended, occupied, or maintained.* Therefore, the granting of this License (which is at the discretion of the ABC) cannot be regarded as a “use” that is regulated by the Development Code. This limited allowance merely affords the owner of the bed and breakfast a promotional option in marketing the rooms and provides guests a convenient means of obtaining a bottle of wine and consuming it on the premises, an activity which can occur at the property today.

Please note that, pursuant to section 19.84 of the Sonoma Municipal Code, you have the right to file an appeal of this determination to the Planning Commission (using the City’s standard appeal form and paying the applicable fee). An appeal would need to be filed not later than 5:00 p.m. on the 15<sup>th</sup> day following your receipt of this letter. (If the 15<sup>th</sup> day falls on a weekend or holiday, the deadline is extended to 5:00 p.m. on the next working day.)

Please let me know if you have any questions about this matter.

Sincerely,



David Goodison  
Planning Director

cc: Bret Sackett, Police Chief

Zac Weinberg  
The Cottage Inn and Spa  
310 First Street East  
Sonoma, CA 95476

RECEIVED

APR 30 2014

**APPELLANTS' EXHIBITS  
(Sonoma Planning Commission)**

**CITY OF SONOMA**

NMNA letter to Planning Director re interpretation (02/20/14)..1  
Planning Director letter of interpretation (03/11/14).....2  
NMNA letter to Planning Director re interpretation (03/31/14)..3  
Appeal Application Form (03/21/14).....4

ABC License Query System Summary (04/01/14).....5  
COMMON ABC LICENSES AND THEIR BASIC PRIVILEGES.....6  
BPC 24045.11 Issuance and Renewal of Licenses.....7  
ABC LICENSED PREMISES DIAGRAM (RETAIL) (01/30/14).....8  
ABC PLANNED OPERATION (RETAIL).....9

Northeast Area Applicable Zoning Districts.....10  
SMC 19.10.050 Allowable land uses & permit requirements.....11  
SMC 19.50.030 Bed and breakfast inns.....12  
SMC 19.50.110 Vacation rentals.....13  
SMC 19.82.020 Restrictions on nonconforming uses & structures.14  
CONDITIONS OF APPROVAL (09/09/99).....15  
CONDITIONS OF APPROVAL (05/13/99).....16

APPELLANTS' EXHIBIT NO. 1



RECEIVED

FEB 21 2014

CITY OF SONOMA

February 20, 2014

David Goodison, Planning Director  
City of Sonoma  
No. 1 the Plaza  
Sonoma, CA 95476

Re: Cottage Inn & Spa (302 & 310 First Street East)

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It is our belief that retail sales are not permitted in a Residential-Medium Density zoning district (SMC 19.10.050 C & Table 2-1) nor does the applicant's Conditional Use Permits (05/13/89 & 09/09/99) allow for uses other than a B&B (SMC 19.50.030).

We are informed that the Planning Department has taken the position that the sale of wine to guests is an "accessory use" (SMC 19.92.020 A) and not inconsistent with zoning regulations or the use permits. From our perspective, such a position undermines the existing zoning regulations and ignores the plain language of the use permits. We believe that a new use requiring a license from a State agency is more than just an "accessory use" and that the words "no other uses" found in the use permits exclude any "assessory use".

Finally, we are surprised by and disappointed in the Planning Department's believed position and are writing to request a reconsideration of the same. Please accept this letter as a request for an official interpretation (SMC 19.02.030 A).

Thank you for your attention.

Respectfully submitted.

Jon Diederich, President

**NORTH OF THE MISSION NEIGHBORHOOD ASSOCIATION**  
140 Mission Terrace  
SONOMA, CA. 95476

APPELLANTS' EXHIBIT NO. 2

No. 1 The Plaza  
Sonoma, California 95476-6618  
Phone (707) 938-3681 Fax (707) 938-8775  
E-Mail: [cityhall@sonomacity.org](mailto:cityhall@sonomacity.org)



Aswan, Arab Republic of Egypt  
Chambolle-Musigny, France  
Greve in Chianti, Italy  
Kaniv, Ukraine  
Patzcuaro, Mexico  
March 11, 2014

John Diederich  
140 Mission Terrace  
Sonoma, CA 95476

Re: Interpretation regarding a Type 67 ABC License requested by the Cottage Inn and Spa, located at 302-310 First Street East

Dear Mr. Diederich:

Thank you for your letter of February 20, 2014. We understand that you are requesting an official interpretation of the Development Code, pursuant to section 19.02.030 (Procedures for Interpretation), with regard to the Planning Department's determination that the issuance of a Type 67 License by the State Department of Alcoholic Beverage Control (ABC) for the Bed and Breakfast/vacation rental units at 302-310 First Street East is neither prohibited by the Development Code nor subject to Use Permit review.

As noted in your letter of February 20, 2014, the ABC is considering the issuance of a Type 67 License to the Cottage Inn and Spa, which would allow them to sell bottles of wine to registered guests of that facility. The Police Department and the Planning Department have reviewed the proposal and neither Department objects to the issuance of the license. It is the determination of the Planning Department that the issuance of such a license is not prohibited by the Development Code and is not subject to Use Permit review, because the allowance authorized by this license is consistent with the authorized use of the property as a bed and breakfast inn/vacation rental. That determination is based on the following factors:

1. The Type 67 License is quite limited in its scope, allowing only for the following:

*Type 67: BED AND BREAKFAST INN - Authorizes the sale of wine purchased from a licensed winegrower or wine wholesaler only to registered guests of the establishment for consumption on the premises. No beer or distilled spirits may be on the premises. Wine shall not be given away to guests, but the price of the wine shall be included in the price of the overnight transient occupancy accommodation. Removal of wine from the grounds is not permitted. Minors are allowed on the premises.*

This ABC license does not provide any allowance or authorization for the sale of alcohol to the general public. It is limited to registered guests of the facility.

2. This allowance is not considered to be "General Retail" as defined in section 19.92.020 of the Development Code, because an allowance to sell bottles of wine to registered guests would not authorize the bed and breakfast to operate as "a store or a shop," which is how the term "General Retail" is defined in the Development Code (section 19.92.020).

3. Section 19.92.020 of the Development Code defines "intensification of use" as follows: *A change in the use of a structure or site, where the new use is required by Chapter 19.48 SMC, Parking and Loading Standards, to have more off-street parking spaces than the former use; or a change in the operating characteristics of a use (for example, hours of operation), which generate more activity on the site.* The allowance authorized by this ABC license does not change the parking standards that apply to the existing use, nor does it intensify any of operating characteristics of the existing use in a manner that would result in increased activity on the site.
4. There is no requirement in the Development Code that the issuance of such a license triggers Use Permit review. While certain activities subject to use permit review, such as a restaurant or a bar, may also require an ABC license in order to operate, it is the activity that is subject to use permit review, not the requirement for an ABC license. For example, a Wholesaler ABC license may be issued to a wine broker operating a business/administrative office in a commercial zoning district with no use permit requirement and a new restaurant would be subject to use permit review even if it did not serve alcohol.

Based on the factors cited above, the Planning Department finds that the issuance of a Type 67 ABC license allowing the owners of the subject business to sell bottles of wine to registered guests, strictly in conjunction with a room rental, does not introduce a new activity to the site, as this allowance is entirely ancillary to the bed and breakfast use. This allowance does not constitute a "use" pursuant to the definition of that term in section 19.92.020 of the Development Code, which reads as follows: *"Use" means the purpose for which land or a structure is designed, arranged, intended, occupied, or maintained.* Therefore, the granting of this License (which is at the discretion of the ABC) cannot be regarded as a "use" that is regulated by the Development Code. This limited allowance merely affords the owner of the bed and breakfast a promotional option in marketing the rooms and provides guests a convenient means of obtaining a bottle of wine and consuming it on the premises, an activity which can occur at the property today.

Please note that, pursuant to section 19.84 of the Sonoma Municipal Code, you have the right to file an appeal of this determination to the Planning Commission (using the City's standard appeal form and paying the applicable fee). An appeal would need to be filed not later than 5:00 p.m. on the 15<sup>th</sup> day following your receipt of this letter. (If the 15<sup>th</sup> day falls on a weekend or holiday, the deadline is extended to 5:00 p.m. on the next working day.)

Please let me know if you have any questions about this matter.

Sincerely,



David Goodison  
Planning Director

cc: **Bret Sackett, Police Chief**

**Zac Weinberg**  
**The Cottage Inn and Spa**  
**310 First Street East**  
**Sonoma, CA 95476**

APPELLANTS' EXHIBIT NO. 3



RECEIVED

APR 07 2014

CITY OF SONOMA

March 31, 2014

David Goodison, Planning Director  
City of Sonoma  
No. 1 the Plaza  
Sonoma, CA 95476

Re: Cottage Inn & Spa (302 & 310 First Street East)

Dear Mr. Goodison:

Receipt is acknowledged of your letter of interpretation dated March 11, 2014.

We continue to believe that the retail sale of wine or other alcoholic beverages to guests is not permitted in an R-M zoning district nor do the B&B's Conditional Use Permits (1999) allow such sales.

Further, we now believe that the bed and breakfast inn is a non-conforming use in a Residential-Medium Density zoning district and the sale of wine or other alcoholic beverages to guests are additional uses (SMC §19.82.020 A 2) which are not now allowed.

Thank you for your continued attention.

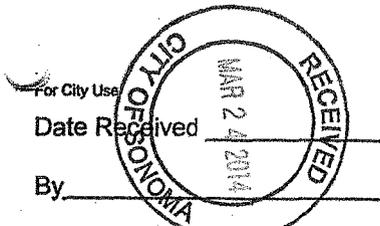
Respectfully submitted.

Jon Diederich, President

**NORTH OF THE MISSION NEIGHBORHOOD ASSOCIATION**  
140 Mission Terrace  
~~2232nd St~~ SONOMA, CA. 95476

APPELLANTS' EXHIBIT NO. 4

# City of Sonoma Appeal Application Form



- A copy of the rights of appeal and the City's appeal procedures may be found on the reverse of this form
- The fee to file an appeal is \$300.00 and must accompany this form
- Appeals must be filed with the City Clerk within fifteen (15) calendar days of the action
- Appeals must address issues raised or decisions made at previous hearings. Appeal hearings cannot be used as a forum to introduce new issues
- In order for your appeal to be valid this form must be filled out completely.

Feel free to attach additional sheets or supporting documentation as may be necessary.

## APPELLANT INFORMATION: (Please Print)

Name: Joseph L. Costello

Name: Jon Diederich

Address: 128 Mission Terrace

Address: 140 Mission Terrace

Phone: 707-938-8180

Phone: 707-933-1899

I/We the undersigned do hereby appeal the decision of the:

Planning Commission

Design Review Commission

City Planner or Department Staff

Other: \_\_\_\_\_

Regarding: Cottage Inn & Spa

(Title of project or application)

Located at: 302-310 First Street East

(Address)

Made on: March 11, 2014

(Date decision was made)

I/We hereby declare that I/We are eligible to file an appeal because:

(Refer to Section 19.84.30-A, Eligibility, on the reverse)

person(s) affected by interpretation of Planning Director

The facts of the case and basis for the appeal are:

see Attachments A & B

I/We request that the Appeal Body take the following specific action(s):

reverse the Planning Director's interpretation and initiate a community dialogue on regulating the sale of alcoholic beverages

at Bed and Breakfasts including non conforming uses in residential zoning districts

Signed:

Signature

03/21/14  
Date

Signature

03/21/14  
Date

APPELLANTS' EXHIBIT NO. 5



**California Department of  
Alcoholic Beverage Control  
License Query System Summary  
as of 4/1/2014**

<b>License Information</b>
<b>License Number:</b> 541554
<b>Primary Owner:</b> TWO FEET UP HOSPITALITY, INC.
<b>ABC Office of Application:</b> 27 - SANTA ROSA
<b>Business Name</b>
<b>Doing Business As:</b> COTTAGE INN & SPA
<b>Business Address</b>
<b>Address:</b> 310 1ST ST E <b>Census Tract:</b> 1501.00
<b>City:</b> SONOMA <b>County:</b> SONOMA
<b>State:</b> CA <b>Zip Code:</b> 95476
<b>Licensee Information</b>
<b>Licensee:</b> TWO FEET UP HOSPITALITY, INC.
<b>Company Information</b>
<b>Officer:</b> WEINBERG, ZAC DANIEL (PRESIDENT/SECRETARY)
<b>Stock Holder:</b> WEINBERG, ZAC DANIEL
<b>License Types</b>
<b>1) License Type:</b> 67 - SPECIAL ON-SALE WINE BED AND BREAKFAST INN
<b>License Type Status:</b> PENDING
<b>Status Date:</b> 30-JAN-2014 <b>Term:</b> 12 Month(s)
<b>Original Issue Date:</b> <b>Expiration Date:</b>
<b>Master:</b> Y <b>Duplicate:</b> 0 <b>Fee Code:</b> P0
<b>License Type was Transferred On:</b> <b>FROM:</b>
<b>Current Disciplinary Action</b>
<i>... No Active Disciplinary Action found ...</i>
<b>Disciplinary History</b>
<i>... No Disciplinary History found ...</i>
<b>Hold Information</b>
<b>Hold Date:</b> 30-JAN-2014 <b>Type:</b> FORM 220

<b>Hold Date:</b> 03-MAR-2014	<b>Type:</b> H & L PROTEST
Escrow	
... <i>No Escrow found</i> ...	

*--- End of Report ---*

For a definition of codes, view our [glossary](#).

APPELLANTS' EXHIBIT NO. 6

**COMMON ABC LICENSE TYPES  
AND THEIR BASIC PRIVILEGES**

LICENSE TYPE	DESCRIPTION
01	<b>BEER MANUFACTURER - (Large Brewery)</b> Authorizes the sale of beer to any person holding a license authorizing the sale of beer, and to consumers for consumption on or off the manufacturer's licensed premises. Without any additional licenses, may sell beer and wine, regardless of source, to consumers for consumption at a bona fide public eating place on the manufacturer's licensed premises or at a bona fide eating place contiguous to the manufacturer's licensed premises. May conduct beer tastings under specified conditions (Section 23357.3). Minors are allowed on the premises.
02	<b>WINEGROWER - (Winery)</b> Authorizes the sale of wine and brandy to any person holding a license authorizing the sale of wine and brandy, and to consumers for consumption off the premises where sold. Authorizes the sale of all wines and brandies, regardless of source, to consumers for consumption on the premises in a bona fide eating place that is located on the licensed premises or on premises owned by the licensee that are contiguous to the licensed premises and operated by and for the licensee. May possess wine and brandy for use in the preparation of food and beverage to be consumed at the bona fide eating place. May conduct winetastings under prescribed conditions (Section 23356.1; Rule 53). Minors are allowed on the premises.
20	<b>OFF SALE BEER &amp; WINE - (Package Store)</b> Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are allowed on the premises.
21	<b>OFF SALE GENERAL - (Package Store)</b> Authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Minors are allowed on the premises.
23	<b>SMALL BEER MANUFACTURER - (Brew Pub or Micro-brewery)</b> Authorizes the same privileges and restrictions as a Type 01. A brewpub is typically a very small brewery with a restaurant. A micro-brewery is a small-scale brewery operation that typically is dedicated solely to the production of specialty beers, although some do have a restaurant or pub on their manufacturing plant.
40	<b>ON SALE BEER - (Bar, Tavern)</b> Authorizes the sale of beer for consumption on or off the premises where sold. No wine or distilled spirits may be on the premises. Full meals are not required; however, sandwiches or snacks must be available. Minors are allowed on the premises.
41	<b>ON SALE BEER &amp; WINE – EATING PLACE - (Restaurant)</b> Authorizes the sale of beer and wine for consumption on or off the premises where sold. Distilled spirits may not be on the premises (except brandy, rum, or liqueurs for use solely for cooking purposes). Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.
42	<b>ON SALE BEER &amp; WINE – PUBLIC PREMISES - (Bar, Tavern)</b> Authorizes the sale of beer and wine for consumption on or off the premises where sold. No distilled spirits may be on the premises. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.
47	<b>ON SALE GENERAL – EATING PLACE - (Restaurant)</b> Authorizes the sale of beer, wine and distilled spirits for consumption on the licenses premises. Authorizes the sale of beer and wine for consumption off the licenses premises. Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.
48	<b>ON SALE GENERAL – PUBLIC PREMISES - (Bar, Night Club)</b> Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.
49	<b>ON SALE GENERAL – SEASONAL -</b> Authorizes the same privileges and restrictions as provided for a Type 47 license except it is issued for a specific season. Inclusive dates of operation are listed on the license certificate.



LICENSE TYPE	DESCRIPTION
51	<b>CLUB</b> - Authorizes the sale of beer, wine and distilled spirits, to members and guests only, for consumption on the premises where sold. No off-sale privileges. Food service is not required. Minors are allowed on the premises.
52	<b>VETERAN'S CLUB</b> - Authorizes the sale of beer, wine and distilled spirits, to members and guests only, for consumption on the premises where sold. Authorizes the sale of beer and wine, to members and guest only, for consumption off the licensed premises. Food service is not required. Minors are allowed on the premises.
57	<b>SPECIAL ON SALE GENERAL</b> - Generally issued to certain organizations who cannot qualify for club licenses. Authorizes the sale of beer, wine and distilled spirits, to members and guests only, for consumption on the premises where sold. Authorizes the sale of beer and wine, to members and guests only, for consumption off the licensed premises. Food service is not required. Minors are allowed on the premises.
59	<b>ON SALE BEER AND WINE – SEASONAL</b> - Authorizes the same privileges as a Type 41. Issued for a specific season. Inclusive dates of operation are listed on the license certificate.
60	<b>ON SALE BEER – SEASONAL</b> - Authorizes the sale of beer only for consumption on or off the premises where sold. Issued for a specific season. Inclusive dates of operation are listed on the license certificate. Wine or distilled spirits may not be on the premises. Minors are allowed on the premises.
61	<b>ON SALE BEER – PUBLIC PREMISES</b> - (Bar, Tavern) Authorizes the sale of beer only for consumption on or off the licensed premises. Wine or distilled spirits may not be on the premises. Minors are not allowed to enter and remain (warning signs required). Food service is not required.
67	<b>BED AND BREAKFAST INN</b> - Authorizes the sale of wine purchased from a licensed winegrower or wine wholesaler only to registered guests of the establishment for consumption on the premises. No beer or distilled spirits may be on the premises. Wine shall not be given away to guests, but the price of the wine shall be included in the price of the overnight transient occupancy accommodation. Removal of wine from the grounds is not permitted. Minors are allowed on the premises.
70	<b>ON SALE GENERAL – RESTRICTIVE SERVICE</b> - Authorizes the sale or furnishing of beer, wine and distilled spirits for consumption on the premises to the establishment's overnight transient occupancy guests or their invitees. This license is normally issued to "suite-type" hotels and motels, which exercise the license privileges for guests' "complimentary" happy hour. Minors are allowed on the premises.
75	<b>ON SALE GENERAL – BREWPUB</b> - (Restaurant) Authorizes the sale of beer, wine and distilled spirits for consumption on a bona fide eating place plus a limited amount of brewing of beer. Also authorizes the sale of beer and wine only for consumption off the premises where sold. Minors are allowed on the premises.
80	<b>BED AND BREAKFAST INN – GENERAL</b> - Authorizes the sale of beer, wine and distilled spirits purchased from a licensed wholesaler or winegrower only to registered guests of the establishment for consumption on the premises. Alcoholic beverages shall not be given away to guests, but the price of the alcoholic beverage shall be included in the price of the overnight transient occupancy accommodation. Removal of alcoholic beverages from the grounds is not permitted. Minors are allowed on the premises.
86	<b>INSTRUCTIONAL TASTING LICENSE</b> - Issued to the holder of and premises of a Type 20 or Type 21 licensee, authorizes the tasting of alcoholic beverages as authorized to be sold from the off-sale premises, on a limited basis. Requires physical separation from the off-sale premises while tasting is taking place and generally requires the participation of a specifically-authorized manufacturer or wholesaler licensee.



## SPECIAL EVENTS

The Department also issues licenses and authorizations for the retail sale of beer, wine and distilled spirits on a temporary basis for special events. The most common are listed below. Other less common ones are found in Business and Professions Code Section 24045.2, et seq.

**SPECIAL DAILY BEER AND/OR WINE LICENSE - (Form ABC-221)** Authorizes the sale of beer and/or wine for consumption on the premises where sold. No off-sale privileges. Minors are allowed on the premises. May be revoked summarily by the Department if, in the opinion of the Department and/or the local law enforcement agency, it is necessary to protect the safety, welfare, health, peace and morals of the people of the State. In some instances, the local ABC office may require the applicant to obtain prior written approval of the local law enforcement agency. Issued to non-profit organizations. (Rule 59, California Code of Regulations)

**DAILY ON SALE GENERAL LICENSE - (Form ABC-221)** Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. No off-sale privileges. Minors are allowed on the premises. May be revoked summarily by the Department if, in the opinion of the Department and/or the local law enforcement agency, it is necessary to protect the safety, welfare, health, peace and morals of the people of the State. In some instances, the local ABC office may require the applicant to obtain prior written approval of the local law enforcement agency. Issued to political parties or affiliates supporting a candidate for public office or a ballot measure or charitable, civic, fraternal or religious organizations. (Section 24045.1 and Rule 59.5 California Code of Regulations)

**CATERING AUTHORIZATION - (Form ABC-218)** Authorizes Type 47, 48, 51, 52, 57, 75 and 78 licensees (and catering businesses that qualify under Section 24045.12) to sell beer, wine and distilled spirits for consumption at conventions, sporting events, trade exhibits, picnics, social gatherings, or similar events. Type 47, 48 and 57 licensees may cater alcoholic beverages at any ABC-approved location in the State. Type 51 and 52 licensees may only cater alcoholic beverages at their licensed premises. All licensees wishing to cater alcoholic beverages must obtain prior written authorization from the Department for each event. At all approved events, the licensee may exercise only those privileges authorized by the licensee's license and shall comply with all provisions of the ABC Act pertaining to the conduct of on-sale premises and violation of those provisions may be grounds for suspension or revocation of the licensee's license or permit, or both, as though the violation occurred on the licensed premises. (Section 23399 and Rule 60.5 California Code of Regulations)

**EVENT AUTHORIZATION - (Form ABC-218)** Authorizes Type 41, 42, 47, 48, 49, 57, 75 and 78 licensees to sell beer, wine and distilled spirits for consumption on property adjacent to the licensed premises and owned or under the control of the licensee. This property shall be secured and controlled by the licensee and not visible to the general public. *The licensee shall obtain prior approval of the local law enforcement agency.* At all approved events, the licensee may exercise only those privileges authorized by the licensee's license and shall comply with all provisions of the ABC Act pertaining to the conduct of on-sale premises (including any license conditions) and violations of those provisions may be grounds for suspension or revocation of the licensee's license or permit, or both, as though the violation occurred on the licensed premises. (Section 23399)

**WINE SALES EVENT PERMIT - (Form ABC-239)** Authorizes Type 02 licensees to sell bottled wine produced by the winegrower for consumption off the premises where sold and only at fairs, festivals or cultural events sponsored by designated tax exempt organizations. The licensee must notify the city and/or county where the event is being held and obtain approval from ABC for each event (Form ABC-222). The licensee must also comply with all restrictions listed in Business and Professions Code Section 23399.6.

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### Note:

1. "Minor" means any person under 21 years of age.
2. Consult Section 25663(b) regarding age of employees in off-sale premises; consult Sections 25663(a) and 25663.5 regarding age of employees in on-sale premises.
3. In certain situations, ABC may place reasonable conditions upon a license, such as restrictions as to hours of sale, employment of designated persons, display of signs, restrictions on entertainment or dancing, etc. If a license has been conditioned, it will be endorsed as such on the face of the license. (Conditional licenses, Sections 23800-23805.)
4. Licensees whose license allows minors on the premises may have a "house policy" restricting minors from entering certain areas of the premises or prohibiting minors in the premises during certain hours.
5. This handout contains only abbreviated information. Contact your local ABC office for full information before doing anything which may jeopardize your license. Also available from the ABC: Quick Summary of Selected ABC Laws (form ABC-608); Alcoholic Beverage Control Act (complete laws); Rules & Regulations; and P-90 (describes privileges of non-retail licenses).

APPELLANTS' EXHIBIT NO. 7

24045.11. The department may issue a special on-sale wine license to an establishment licensed to do business as a bed and breakfast inn.

"Bed and breakfast inn," as used in this section, means an establishment of 20 guestrooms or less, which provides overnight transient occupancy accommodations, which serves food only to its registered guests, which serves only a breakfast or similar early morning meal, and with respect to which the price of the food is included in the price of the overnight transient occupancy accommodation. For purposes of this section, "bed and breakfast inn" refers to an establishment as to which the predominant relationship between the occupants thereof and the owner or operator of the establishment is that of innkeeper and guest. For purposes of this section, the existence of some other legal relationships as between some occupants and the owner or operator is immaterial.

An establishment holding a license under this section is authorized to serve wine purchased from a licensed winegrower or wine wholesaler only to registered guests of the establishment. Wine shall not be given away to guests but the price of the wine shall be included in the price of the overnight transient occupancy accommodation. Guests shall not be permitted to remove wine served in the establishment from the grounds.

The applicant for a license shall accompany the application with an original fee of fifty dollars (\$50) and shall pay an annual renewal fee of six dollars (\$6) for each guestroom in the establishment until December 31, 2004, and for each year thereafter the annual fee shall be calculated pursuant to subdivisions (b) and (c) of Section 23320.

APPELLANTS' EXHIBIT NO. 8

Department of Alcoholic Beverage Control  
**LICENSED PREMISES DIAGRAM (RETAIL)**

State of California

1. APPLICANT NAME (Last, first, middle) <b>Two Feet Up Hospitality, Inc.</b>	2. LICENSE TYPE <b>67 (B&amp;B or Inn)</b>
3. PREMISES ADDRESS (Street number and name, city, zip code) <b>310 First Street East Sonoma, CA 95476</b>	4. NEAREST CROSS STREET <b>Mission Terrace</b>

The diagram below is a true and correct description of the entrances, exits, interior walls and exterior boundaries of the premises to be licensed, including dimensions and identification of each room (i.e., "storeroom", "office", etc.).

**DIAGRAM**

Please See Attached:

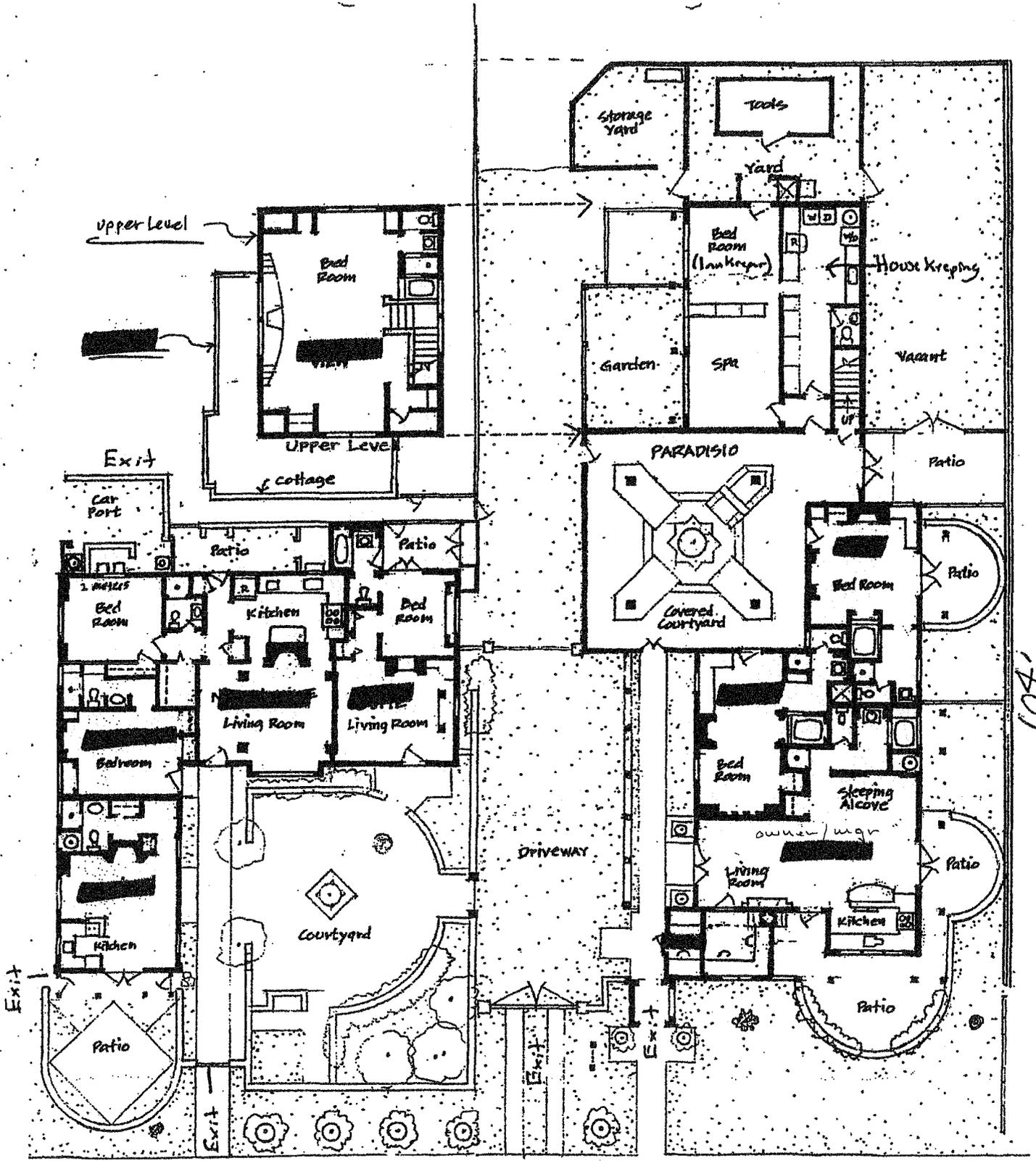
1) Property Map

2) Room Description & Size

It is hereby declared that the above-described boundaries, entrances and planned operation as indicated on the reverse side, will not be changed without first notifying and securing prior written approval of the Department of Alcoholic Beverage Control. I declare under penalty of perjury that the foregoing is true and correct.

APPLICANT SIGNATURE (Only one signature required) 	DATE SIGNED <b>1/30/14</b>
<b>FOR ABC USE ONLY</b>	
SIGNATURE 	PRINTED NAME <b>Lynn Pecchi</b>
INSPECTION DATE <b>2-5-2014</b>	

isolate HWH



4 units

134'

5 units

← First Street East →

104'

APPELLANTS' EXHIBIT NO. 9

Department of Alcoholic Beverage Control  
**PLANNED OPERATION (RETAIL)**

**SECTION I - FOR ALL RETAIL APPLICANTS**

1. APPLICANT NAME(S) Two Feet Up Hospitality, Inc. 2. LICENSE TYPE(S) 67 (B&B or Inn)

3. PREMISES ADDRESS (Street number and name, city, zip code) 310 First Street East Sonoma, CA 95476 4. NEAREST CROSS STREET Mission Terrace

5. TYPE OF BUSINESS (Choose one that best describes the planned operation)

<input type="checkbox"/> Full Service Restaurant	<input type="checkbox"/> Cafeteria/Hofbrau	<input type="checkbox"/> Cocktail Lounge	<input type="checkbox"/> Private Club
<input type="checkbox"/> Deli or Specialty Restaurant	<input type="checkbox"/> Comedy Club	<input type="checkbox"/> Night Club	<input type="checkbox"/> Veterans Club
<input type="checkbox"/> Cafe/Coffee Shop	<input type="checkbox"/> Brew Pub	<input type="checkbox"/> Tavern	<input type="checkbox"/> Fraternal Club
<input checked="" type="checkbox"/> Bed & Breakfast	<input type="checkbox"/> Theater	<input type="checkbox"/> Wine Tasting Room	
<input type="checkbox"/> Supermarket	<input type="checkbox"/> Membership Store	<input type="checkbox"/> Service Station	<input type="checkbox"/> Swap Meet/Flea Market
<input type="checkbox"/> Liquor Store	<input type="checkbox"/> Department Store	<input type="checkbox"/> Convenience Market	<input type="checkbox"/> Drive-In Dairy
<input type="checkbox"/> Variety/Drug Store	<input type="checkbox"/> Gift Shop/Florist	<input type="checkbox"/> Convenience Market w/Gasoline	
<input type="checkbox"/> Other - describe: _____			

6. PATRON CAPACITY 9 rooms 7. SURROUNDING AREA  Commercial  Rural  Industrial  Residential  Other \_\_\_\_\_

8. PREMISES IS LOCATED IN  Free Standing Building  Shopping Center (Name): \_\_\_\_\_  10 Units or Less  More than 10 Units

9. FOOD SERVICE  None  Minimal  Full Meals 10. PARKING LOT?  Yes  No 11. PATIO?  Yes  No

12. WILL YOU HIRE A MANAGER? (Rule 57.5)  Yes  No 13. WILL YOU HAVE A FOOD LESSEE? (Rule 57.7)  Yes  No

14. MEAL TYPE  Dinner House  Seafood  Fast Food/Deli  Other: Breakfast  Pizza/Pasta

15. TYPE OF FOOD  American  Greek  Indian  French  Chinese  Korean  Italian  Thai  Japanese  Other: Baked goods, cereal, fruit

16. HOURS OF FOOD SERVICE  
 BREAKFAST HOURS From: 8:00 am To: 11:00 am  
 LUNCH HOURS From: \_\_\_\_\_ To: \_\_\_\_\_  
 DINNER HOURS From: \_\_\_\_\_ To: \_\_\_\_\_

17. OPERATING HOURS

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Opening Time	8:00 am	8:00 am	8:00 am	8:00 am	8:00 am	8:00 am	8:00 am
Closing Time	6:00 am	6:00 am	6:00 am	6:00 am	6:00 am	6:00 am	6:00 am

18. ENTERTAINMENT (One or more may apply. Please describe any entertainment with an asterisk (\*) below)

<input checked="" type="checkbox"/> None	<input type="checkbox"/> *Amplified Music	<input type="checkbox"/> Patron Dancing	<input type="checkbox"/> Card Room
<input type="checkbox"/> Recorded Music	<input type="checkbox"/> *Live Entertainment	<input type="checkbox"/> Bikini/Topless/Exotic	<input type="checkbox"/> Movies
<input type="checkbox"/> Juke Box	<input type="checkbox"/> *Floor/Stage Shows	<input type="checkbox"/> Pool/Billiard Tables	<input type="checkbox"/> "Hot Spot"/Lottery
<input type="checkbox"/> *Other	<input type="checkbox"/> Karaoke	<input type="checkbox"/> *Amateur/Pro Sports Events	<input type="checkbox"/> Video/Coin-Operated Games

\*Description: \_\_\_\_\_

19. PREMISES IS LOCATED ON  Major Thoroughfare  Secondary Street  Other \_\_\_\_\_

20. TYPE OF STRUCTURE  Single Story  Two-Story  Multi-Story - Number of stories: one upstairs

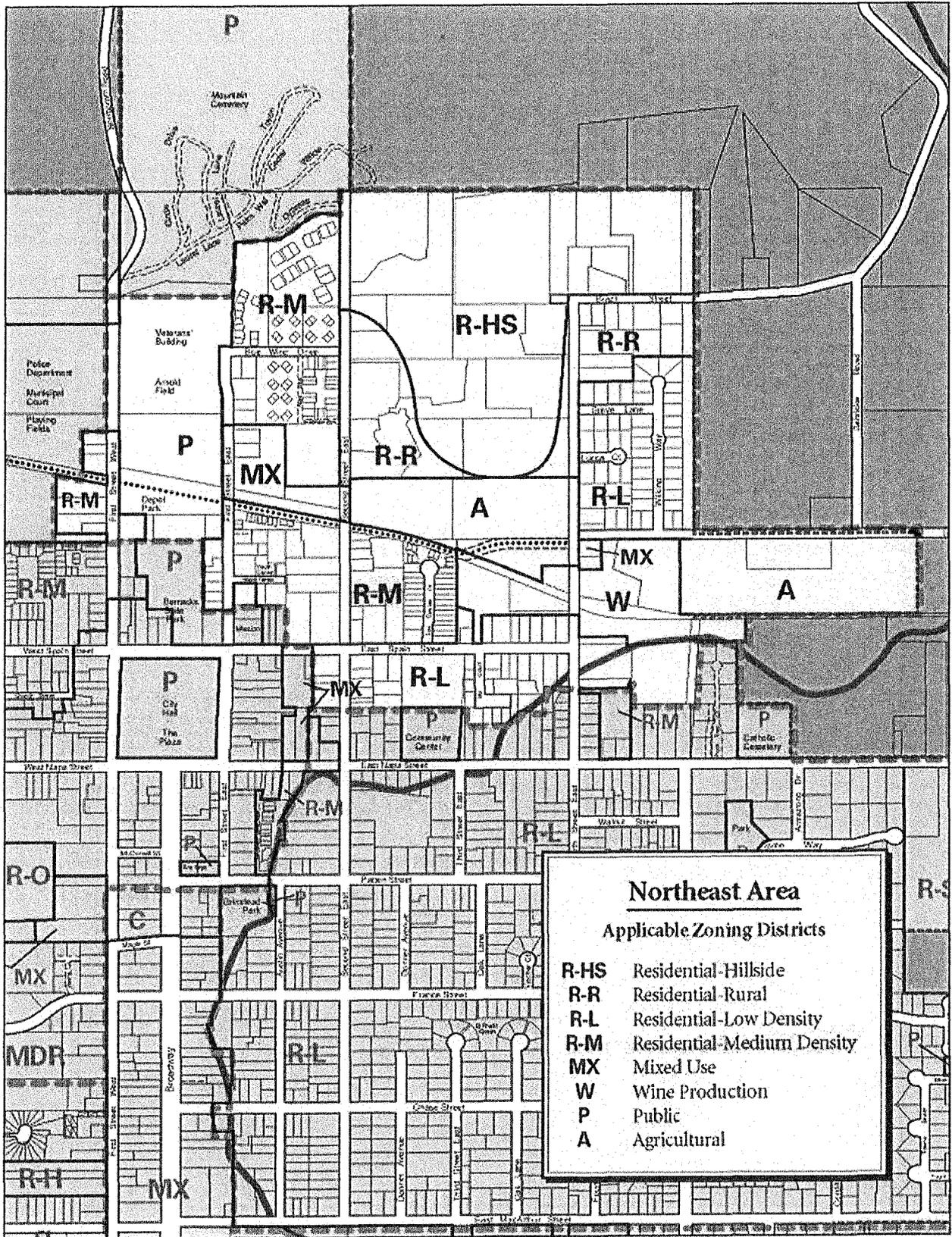
21. PASS-THROUGH WINDOW?  Yes  No 22. FIXED BARS?  Yes - how many: \_\_\_\_\_  No

23. WHAT PERCENTAGE OF YOUR TOTAL SALES WILL BE ALCOHOLIC BEVERAGES? 1%

**FOR ABC USE ONLY**

24. INFORMATION GIVEN (R-27, R-107, Sec. 25612.5, Sec. 23790.5, etc.) \_\_\_\_\_ 25. DATE ENTERED INTO CABIN \_\_\_\_\_

APPELLANTS' EXHIBIT NO. 10



Map showing zoning districts and landmarks in the Northeast Area. Landmarks include Mountain Cemetery, Veterans Building, Arsenal Field, Depot Park, Barracks Park, City Hall, The Plaza, Community Center, and various streets like West Main Street, East Main Street, and Broadway.

APPELLANTS' EXHIBIT NO. 11

**19.10.050 Allowable land uses and permit requirements.**

A. Purpose. This section determines which land uses are allowed in each zoning district established by SMC 19.10.020, Zoning districts established, and the land use permit required to establish each use.

B. Allowed Land Uses. The uses of land allowed by this development code in each zoning district are identified in Tables 2-1, 2-2, 2-3 and 2-4, along with the type of planning permit required for each use. These tables provide for land uses that are:

1. Permitted subject to compliance with all applicable provisions of this development code, subject to first obtaining a zoning clearance (SMC 19.54.020), and any building permit or other administrative permit required by the municipal code. These are shown as "P" uses in the tables;
2. Allowed subject to the approval of a use permit (SMC 19.54.040), and shown as "UP" uses in the tables.

Note: where the last column in the tables ("Specific Use Standards") includes a section number, the regulations in the referenced section apply to the use; however, provisions in other sections of this development code may also apply.

C. Uses Not Listed. Land uses that are not listed in the tables or are not shown in a particular zoning district are not allowed, except as otherwise provided by SMC 19.02.020(D), Rules of interpretation – Allowable Uses of Land), or SMC 19.03.030, Exemptions from Land Use Permit Requirements.

D. Standards for Parcels with Multiple Zoning Districts. Where an existing parcel is zoned in two or more zoning districts, each portion of the parcel in a separate district shall be developed/used in compliance with the requirements of the applicable district. (Ord. 07-2003 § 1, 2003; Ord. 2003-02 § 3, 2003).

**Table 2-1**

**Residential Uses and Permit Requirements**

Land Use <sup>1</sup>	Permit Required by District					Specific Use Regulations
	R-	R-R	R-L	R-S	R-M R-H R-O R-P	
						P Use permitted
						UP Use permit required
						- Use not allowed
	HS					
<i>AGRICULTURE, RESOURCE AND OPEN SPACE USES</i>						

**Table 2-1**

**Residential Uses and Permit Requirements**

Land Use <sup>1</sup>	Permit Required by District									Specific Use Regulations	
	R- HS	R-R	R-L	R-S	R-M	R-H	R-O	R-P			
<b>Allowed Uses and Permit Requirements for Residential Zoning Districts</b>											
										P	Use permitted
										UP	Use permit required
										-	Use not allowed
Animal Keeping	P	P	UP	-	-	-	-	-	-		Chapter <u>8.08</u> SMC
Crop Production and Horticulture	P	P	UP	-	-	-	-	-	-		
Produce Stands for On-Site Production	P	P	UP	-	-	-	-	-	-		SMC 19.50.070
<i>MANUFACTURING AND PROCESSING USES</i>											
Existing Uses	-	-	-	-	-	-	-	-	-		SMC <u>19.82.020</u>
<i>RECREATION, EDUCATION AND PUBLIC ASSEMBLY USES</i>											
Equestrian Facilities	UP	UP	-	-	-	-	-	-	-		
Parks and Playgrounds	P	P	P	P	P	P	P	P	-		
Religious Facilities	-	-	UP	UP	UP	UP	-	-	-		
Schools – Public and Private	-	-	UP	UP	UP	UP	-	-	-		
<i>RESIDENTIAL USES<sup>2</sup></i>											
Duplex	-	-	UP	P	P	UP	UP	-	-		
Emergency Shelters/Transitional Housing	-	-	UP	-	UP	UP	UP	-	-		
Home Occupation	P	P	P	P	P	P	P	P	P		SMC 19.50.040
Live/Work Facilities	-	-	-	UP	-	-	-	-	-		SMC 19.50.050
Mobile Home Park	-	-	-	-	-	-	-	-	UP		

Table 2-1

Residential Uses and Permit Requirements

Land Use <sup>1</sup>	Permit Required by District									Specific Use Regulations
	R- HS	R-R	R-L	R-S	R-M	R-H	R-O	R-P		
Allowed Uses and Permit Requirements for Residential Zoning Districts										P Use permitted UP Use permit required - Use not allowed
Multifamily Dwellings (Four or Fewer)	-	-	-	UP	P	P	P	-		
Multifamily Dwellings (Five or More)	-	-	-	UP	UP	UP	P	-		
Residential Accessory Uses and Structures	P	P	P	P	P	P	P	P		SMC 19.50.080
Residential Care Homes – Six or Fewer Clients	-	P	P	P	P	-	-	-		
Residential Care Homes – Seven or More Clients	-	-	UP	UP	UP	-	-	-		
Secondary Residential Units	P	P	P	P	UP	UP	-	-		SMC 19.50.090
Single-Family Dwellings	UP	P	P	P	P	UP	-	-		
<b>RETAIL TRADE AND SERVICES</b>										
Art, Antique, Collectible and Gift Sales	-	-	-	UP	-	-	-	-		
Artisan Shops	-	-	-	UP	-	-	-	-		
Bed and Breakfast Inns (B&Bs)	UP	UP	UP	-	-	-	-	-		SMC 19.50.030
Child Day Care Center	-	UP	UP	UP	UP	UP	UP	-		
Child Day Care: Small Family Day Care Home	-	UP	UP	UP	UP	UP	-	-		

Table 2-1

Residential Uses and Permit Requirements

Land Use <sup>1</sup>	Permit Required by District									Specific Use Regulations
	R- HS	R-R	R-L	R-S	R-M	R-H	R-O	R-P		
Child Day Care: Large Family Day Care Home	-	-	UP	UP	UP	UP	UP	-	-	
General Retail	-	-	-	UP	-	-	-	-	-	
Governmental and Public Facilities	-	UP	UP	UP	UP	UP	UP	-	-	
Libraries and Museums	-	-	-	UP	-	-	-	-	-	
Medical Services – Extended Care	-	-	-	UP	UP	-	-	-	-	
Offices, Professional and Administrative	-	-	-	UP	-	-	-	-	-	
Personal Services	-	-	-	UP	-	-	-	-	-	
Restaurant	-	-	-	UP	-	-	-	-	-	
Senior Residential Care Facilities	-	-	-	-	UP	-	-	-	-	
Telecommunications Facilities, Commercial	See Chapter 5.32 SMC, Telecommunications Facility and Antenna Criteria									
<i>SPECIAL PURPOSE USES</i>										
Public Utility Facilities	-	-	-	-	-	-	-	-	-	
Public Utility Equipment	P	P	P	P	P	P	P	P	P	

Notes:

1. See SMC 19.10.050(C) regarding uses not listed. See Division VIII for definitions of the listed land uses.
2. New residential developments subject to the city's growth management ordinance (Chapter 19.94 SMC).

APPELLANTS' EXHIBIT NO. 12

**19.50.030 Bed and breakfast inns.**

This section provides requirements for the establishment and operation of bed and breakfast inns.

A. Permit and Operational Requirements. The approval and operation of a bed and breakfast inn shall be subject to the following requirements:

1. Conditional Use Permit Required. The establishment and operation of a bed and breakfast inn shall require the approval of a conditional use permit in compliance with SMC 19.54.040;
2. Business License Required. A business license is required for the establishment and operation of a bed and breakfast inn;
3. Maximum Number of Rooms. Bed and breakfast inns shall be limited to five rental guest rooms plus accommodations for the manager/owner;
4. On-Site Management. An on-site manager shall maintain residence on the subject site;
5. Maximum Length of Stay. Visitor occupancy shall be limited to a maximum of 29 consecutive days;
6. Provision of Meals.
  - a. Limitations. Food service shall be limited to breakfast served to registered overnight guests only;
  - b. Guestroom Cooking Facilities Prohibited. Cooking facilities in individual rental guestrooms are prohibited;
7. Other Uses. Amplified music, lawn parties, outdoor weddings, or similar activities shall not occur on site unless specifically allowed by the required conditional use permit;
8. Fence Requirements. Where the site of a proposed bed and breakfast inn adjoins a residential zoning district, a six-foot high solid decorative fence of masonry and wood or solid masonry shall be erected and permanently maintained along the side and rear property lines;
9. Signs. Signs shall identify the establishment as an inn and not as a hotel, lodge, motel, or similar use. Signs shall be limited to two square feet, shall be subject to the approval of the city's design review and historic preservation commission, and shall comply with the applicable standards of SMC Title 18, Signs and Display Advertising;
10. Waste Collection and Disposal. Waste collection areas shall be clearly designated on the proposed site plan. Areas shall be clearly accessible for pickup and shall be screened from view with solid walls and landscape materials. Waste disposal pickup bins (dumpsters) shall not occupy any required parking space(s) or intrude into required access drives;

11. **Lighting Restrictions.** Low-intensity safety and security lighting for parking areas and structures shall be required as a security and safety measure, shall not reflect on adjoining properties, and shall be confined to ground lighting wherever possible;

12. **County Approvals Required.** Applicants for bed and breakfast inns shall receive written approval of the county public health department and sanitation district before the business becomes operational.

**B. Neighborhood Concentration.** In the review of a use permit application for a bed and breakfast inn, the planning commission shall consider the following guidelines:

1. Bed and breakfast inns on contiguous lots are discouraged.
2. A concentration of bed and breakfast inns that would damage the residential character of a neighborhood is discouraged.

**C. Design and Character Compatibility.**

1. **Unique Residential Structures.** Bed and breakfast inns are limited to the adaptive conversion and reuse of, or reproductions of, architecturally or historically unique residential structures, which are compatible with the surrounding neighborhood.
2. **Residential Character and Scale.** New structures, or additions to existing structures, shall maintain the established residential character and scale, consistent with other on-site structures and the surrounding neighborhood.
3. **Accessory Structures Not for Guests.** Accessory structures shall not be used for rental guest rooms.
4. **Increase in Guest Rooms Prohibited.** Additions to existing structures which would increase the number of rental guest rooms shall not be allowed except through conditional use permit review (see SMC 19.54.040). (Ord. 06-2013 § 3, 2013; amended during June 2011 supplement; Ord. 2003-02 § 3, 2003).

APPELLANTS' EXHIBIT NO. 13

**19.50.110 Vacation rentals.**

This section sets forth requirements for the establishment and operation of vacation rental facilities.

A. Permit and Operational Requirements. The approval and operation of a vacation rental shall be subject to the following requirements:

1. Conditional Use Permit Required. The establishment and operation of a vacation rental shall require the approval of a conditional use permit in compliance with SMC 19.54.040;
2. Maximum Number of Units. A vacation rental shall consist of no more than two complete residential units;
3. Business License Required. A business license is required for the establishment and operation of a vacation rental;
4. Transient Occupancy Tax. A transient occupancy tax registration form shall be completed, and the owner or manager shall pay transient occupancy tax;
5. Maximum Length of Stay. Visitor occupancy shall be limited to a maximum of 29 consecutive days;
6. Fire and Life Safety. Fire and life safety requirements as required by the fire department and the building division shall be implemented. Minimum requirements shall include approved smoke detectors in each lodging room, installation of an approved fire extinguisher in the structure, and the inclusion of an evacuation plan posted in each lodging room;
7. Annual Inspection. Each vacation rental shall comply with the annual fire and life safety certification procedures of the fire department;
8. Signs. One sign, with a maximum area of two square feet, shall be allowed subject to the approval of the city's design review and historic preservation commission;
9. Secondary Use. A vacation rental in the Commercial zone shall be allowed only in conjunction with an approved commercial use.

B. Licensed Vacation Rentals. Existing, licensed vacation rentals shall be allowed to continue as a legal, nonconforming use provided they comply with the requirements set forth in subsection (A)(4) through (A)(8) of this section. For the purpose of this section, "licensed" shall mean a vacation rental which as of November 3, 1999, has a valid business license and has registered to pay transient occupancy tax pursuant to SMC 3.16.060. (Ord. 06-2013 § 3, 2013; Ord. 2003-02 § 3, 2003).

APPELLANTS' EXHIBIT NO. 14

**19.82.020 Restrictions on nonconforming uses and structures.**

Nonconformities may be continued subject to the following provisions, except as otherwise provided by SMC 19.82.030, Loss of nonconforming status:

A. Nonconforming Uses of Land. A nonconforming use of land, or within a structure, may be continued, transferred, or sold; provided, that:

1. The use shall not be enlarged, increased, or extended to occupy a greater floor area or portion of the site than it lawfully occupied before becoming a nonconforming use, except as otherwise provided by subsection (C) of this section; and
2. Additional uses on the site shall not be allowed unless the nonconforming use is first discontinued, and any replacement use complies with all applicable provisions of this development code.

B. Nonconforming Structures. A nonconforming structure may continue to be used as follows:

1. Changes to Structure. The enlargement, extension, reconstruction, or structural alteration of a structure that is nonconforming only as to height and setback regulations may be allowed with conditional use permit approval if:

- a. The additions or improvements conform to all other applicable provisions of this development code;
- b. The exterior limits of new construction do not exceed the applicable height limit or encroach any further into the setbacks than the comparable portions of the existing structure;
- c. Changes involving the replacement/reconstruction do not include the replacement of more than 50 percent of the original floor area, or more than 50 percent of the total length of all exterior walls of the original structure; and
- d. The enlargement of the structure will not accommodate the expansion or enlargement of a nonconforming use of land.

2. Maintenance and Repair. A nonconforming structure may undergo normal maintenance and repairs, provided no structural alterations are made (exception: see subsection (B)(3) of this section), and the work does not exceed 50 percent of the assessed value of the structure in any one-year period, unless the commission allows more extensive work through conditional use permit approval.

3. Seismic Retrofitting/Building Code Compliance. Repairs or alterations otherwise required by law shall be allowed in the following circumstances:

a. Unreinforced Masonry Structures. Reconstruction required to reinforce unreinforced masonry structures shall be permitted without cost limitations, provided the retrofitting is limited exclusively to compliance with earthquake safety standards; and

b. Building Code Requirements. Reconstruction required to comply with building code requirements shall be allowed without cost limitations, provided the retrofitting/code compliance is limited exclusively to compliance with earthquake safety standards, as identified in subsection (B)(3)(a) of this section and other applicable building code requirements, including state law (e.g., Title 24, California Code of Regulations, etc.).

4. Site Plan and Architectural Review Required. Any alteration which exceeds 1,000 square feet in gross floor area shall require site plan and architectural review, in compliance with SMC 19.54.080.

C. Nonconforming Use of a Conforming Structure. The nonconforming use of a structure that otherwise conforms with all applicable provisions of this development code may be continued, transferred, and sold, as follows:

1. Expansion of Use. The nonconforming use of a portion of a structure may be extended throughout the structure, subject to use permit approval (SMC 19.54.040).

2. Substitution of Use. The nonconforming use of a conforming structure may be changed to another nonconforming use of the same or less intensive/more restricted nature. However, the replacement use shall serve as the "new bench mark" in terms of establishing the acceptable level of noncompliance.

D. Destroyed Structure. The reconstruction, restoration, and reuse of a nonconforming structure verified to have been involuntarily damaged by fire or calamity to the extent of more than 50 percent of the appraised value of the structure as determined by a qualified appraiser, may be allowed, provided the reconstruction, restoration, and reuse:

1. Shall occur within one year after the date of the damage/destruction;

2. Has no greater floor area than the one damaged/destroyed; and

3. A single-family dwelling may be rebuilt on its original foundation, to its original footprint, by only the owner at that time of destruction, within a period of one year from the time of destruction, regardless of the extent/percentage of destruction. (Ord. 2003-02 § 3, 2003).

APPELLANTS' EXHIBIT NO. 15





APPELLANTS' EXHIBIT NO. 16

FINAL

City of Sonoma Planning Commission  
CONDITIONS OF PROJECT APPROVAL  
Friberg Bed and Breakfast--310 First Street East

May 13, 1999

1. The following are required by the Public Works Department and other affected agencies prior to approval of the issuance of any occupancy permit, as applicable.
  - a. All sidewalk, street, storm drainage, water, sewer and public utility easements shall be dedicated to the City of Sonoma or to other affected agencies of jurisdiction, as required.  
*Enforcement Responsibility: Public Works; Building Division*  
*Timing: Prior to issuance of occupancy permit.*
2. The following public improvements shall be required as deemed necessary by the City Engineer or other applicable department or agency.
  - a. Repair or reconstruction of curb, gutter, sidewalk and street structural section along the frontage of the property and, if deemed necessary by the City Engineer, the repair or reconstruction of the street to the centerline along the frontage of the property.  
*Enforcement Responsibility: Public Works Division; Building Division*  
*Timing: Prior to Issuance of any occupancy permit*
3. Only three bed and breakfast units are allowed. The development and operation of the bed and breakfast shall be conducted in conformance with the project narrative and site plan. Cooking facilities within guest rooms are prohibited. No other uses are allowed in conjunction with the bed and breakfast facility. Only the breakfast meal may be served.  
*Enforcement Responsibility: Planning Division*  
*Timing: Ongoing*
4. All Fire Department requirements shall be met. An annual inspection of the facility is required.  
*Enforcement Responsibility: Fire Department*  
*Timing: Prior to occupancy as a bed and breakfast/Ongoing*
5. All Building Division requirements shall be met. A building permit shall be required in order to verify compliance with applicable building and fire codes.  
*Enforcement Responsibility: Building Division*  
*Timing: Prior to occupancy as a bed and breakfast*
6. Signs shall be subject to the review and approval of the Architectural Review Commission and shall be limited to two square feet. Low intensity lighting shall be required, subject to the review and approval of the Architectural Review Commission.  
*Enforcement Responsibility: Planning Division; ARC*

*Timing: Prior to occupancy as a bed and breakfast*

7. The following agencies must be contacted by the applicant to determine permit or other regulatory requirements of the agency prior to issuance of a building permit:
- a. Bay Area Air Quality Management District; [For projects or equipment that may cause air pollution, demolition projects and renovation/alteration projects involving asbestos.]
  - b. Sonoma County Permit and Resource Management; [For sewer connections and modifications, interceptor requirements and demolition where sewer exists]
  - c. Sonoma County Water Agency. [For drainage plans and for changes of use resulting in ESD modification Note: substantial fees may apply for new sewer connections and/or the use of additional ESDs from an existing sewer connection. The applicant is encouraged to check with the Sonoma County Water Agency immediately to determine whether such fees apply.]
  - d. The Sonoma County Department of Public Health.

*Enforcement Responsibility: Building Division*

*Timing: Prior to the issuance of any building permit*

8. ~~Should the subject property be sold or operated separately from the adjoining property at 302 First Street East, the following shall be required: 1) an on-site manager or the owner of the subject property must reside on the subject property (310 First Street East); 2) either the number of guest units shall be reduced to 2, or an additional parking space shall be provided, either along the driveway or adjacent to the garage on the east.~~

*Enforcement Responsibility: Planning Division*

*Timing: Ongoing*

## MEMO

**To:** Planning Commissions  
**From:** Cristina Morris  
**Date:** May 2, 2014  
**Subject:** Planning Commission Meeting 5-8-14

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Agenda Item #2 will be distributed on Monday, May 5<sup>th</sup>.

## MEMO

**To:** Planning Commission  
**From:** Planning Director Goodison  
**Re:** Discussion of tree protection policies for new development

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### Background

Under the City's Tree Ordinance, which was most recently updated in 2008, tree protection measures for new development are implemented as follows:

1. A project site plan is required in which all trees of XXX are identified in relation to the proposed development and are indicated for preservation or removal.
2. A project arborist is selected by staff and an arborist report is prepared, in which all trees of XXX are identified and evaluated.
3. The arborist report is review by the Tree Committee, which makes recommendations to the Planning Commission regarding the preservation of trees and for mitigating the removal of trees through tree replacement.
4. The Planning Commission, as part of entitlement review, makes the final decisions on trees designated for preservation and replacement mitigation.
5. The project arborist specifies tree protection measures in the improvement plans and monitors construction to ensure that the measures are implements.

In some cases, trees designated for preservation are subject to an on-going preservation requirement, meaning that they cannot be removed without review following the completion of project improvements. Circumstances in which trees that are subject to an on-going preservation requirement are as follows: trees within a commercial development; trees in front yards and common areas of a multi-family development or PUD; trees within a public right-of-way. In addition, under the Tree Ordinance, any tree having a single trunk circumference greater than four and one-half feet at a height of four and one-half feet, located on a single-family or multifamily residential property within a front yard or street-side yard setback is classified as a "Significant Tree", meaning that it cannot be removed without the review and approval of the Tree Committee.

In residential settings, there are trees, however, that even though protected through the development of a project, may be removed without Tree Committee review, once the subdivision is completed. For the most part, any tree in a private backyard may be removed by the property owner without tree committee review, absent a specific requirement in the project conditions of approval. This allowance is usually not a problem, because property owners typically view trees as an amenity and tend to keep them. However, in a situation where the property views a back yard tree as a nuisance, for whatever reason, it will usually be the case that the tree can be removed without any City review, even if the tree was a large, native species, such as an oak tree.

In the review of a development, the Planning Commission does have the option of designating trees in private year yards as be subject to an on-going preservation requirement, when it deems that to be appropriate.

## **Recommendation**

Staff is updating the Planning Commission on this issue at the request of Commissioner Willers. The purpose of this review is to point out to the Planning Commission that residential rear-yard trees are typically *not* subject to an on-going preservation requirement. However, when justified by the circumstances of a particular project, the Planning Commission does have the ability to impose that requirement through conditions of project approval.