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March 26, 2024

[Via email only: cecily.condons@sonoma-county.org]

Cecily Condon
Project Planner
Permit Sonoma
2550 Ventura Avenue
Santa Rosa CA 95403

Re: Board of Zoning Adjustments Hearing: March 28, 2024
Revocation of Use Permit
File No.: UPE07-0112
Site Address: 3660 Copperhill Lane, Santa Rosa, APN: 059-250-004

Dear Ms. Condon:

Please accept this letter regarding the referenced matter. My prior related letters dated September 8, 2023, October 25, 2023 (Staff Memorandum for Continued Item (“Memorandum” Attachment 8), and February 6, 2024 (Memorandum Attachment 9) are incorporated herein.

CMS Properties LLC. (“CMS”), the owner of the referenced property (the “Property”), supports staff’s request that the Board of Zoning Adjustments (“BZA”) revoke the subject Conditional Use Permit (“CUP”) for noncompliance with the Conditions of Approval and violations of the Sonoma County Code. CMS appreciates staff’s attention to this issue and thoughtful reports.

My prior letters set forth the history of noncompliance by Farrow Commercial, Inc. (along with Farrow Ready Mix and other Farrow related entities, “Farrow”). In sum, Farrow knowingly has been in violation of the CUP since November 2018 when it purchased the assets of the prior tenant on the Property, Carl’s Ready Mix. For the past five (5) plus years, Farrow has failed to satisfy most pre-operational and operational conditions of approval, including, but not limited to, fundamental health and safety requirements. Despite “several efforts and multiple actions to achieve compliance...violations remain unresolved.” (Memorandum, p. 2)

It is clear Farrow has exerted only minimal efforts to bring its operations into compliance with the CUP conditions of approval. Permit Sonoma's document entitled *UIPE07-0112 Farrow Ready Mix Condition Compliance*, attached hereto, starkly illustrates this fact. Out of the 53 conditions precedent to the use, 30 are specifically tagged as "implementation" still pending. Most other conditions, although not specifically tagged as "implementation" needed, remain incomplete in one way or another. The only conditions that have been met (# 7, 12-14, 22, 23, 36, 42-43) were completed by either the prior tenant or the owner of the Property many years ago.

One incomplete item relates to the improper submission of the application for building permit BLD23-7519 submitted more than two (2) months ago on November 28, 2023. Each structure requires its own separate application, i.e., the batch plant requires a separate application for a building permit. (COA #1) In fact, Farrow was informed of this easily corrected deficiency on or about December 8, 2023¹, but two (2) months later, the applications have not yet been corrected and the file is awaiting applicant response.

The use continues despite dangerous conditions. As the Memorandum concludes, "Building violations leading to potentially dangerous conditions and noncompliance with the Use Permit have been well documented and the failure to comply constitutes a nuisance." (P. 6) The concrete batch plant lacks foundations. The batch plant is approximately 25 feet tall supported by four (4) legs. Trucks back in between the unsupported legs and the concrete mix pours into the truck from above. Should a truck knock the batch plant over, it could easily land on the office located within a couple of feet away or otherwise on a person or vehicle.

At the October 26, 2023, BZA meeting, BZA members allowed Farrow yet more time to come into compliance. Member Eric Koenigshofer stated he supported a three (3) month continuance if it "results in compliance." Chair Kevin Deas stated he was "not thrilled" with the option to continue the hearing and conceded to "no more" than a three (3) month continuance. In the meantime, CMS desires to sell the Property and has received interest by potential purchasers, only to be rejected due to the continued violations marring title to and general marketability of the property.

CMS requests the CUP be revoked as non-compliant and, importantly, for being a public safety hazard and a nuisance. As the Staff Report concludes, "Building violations leading to potentially dangerous conditions and noncompliance with the Use Permit have been well documented and the failure to comply constitutes a nuisance." (P. 4)

¹ On December 8, 2023, CMS received an update from Adobe Associates stating that Permit Sonoma advised the applications must be separate.

Thank you for your consideration of this matter.

Very truly yours,

Rose M. Zoia

Rose M. Zoia

Encl.

cc via email only:

Chair Shaun McCaffery

Commissioner Greg Carr

Commissioner Patricia Gilardi

Commissioner Eric Koenigshofer

Stacey Ciddio, Managing Member, CMS Properties LLC

Tennis Wick, Director, Planning

Scott Orr, Deputy Director, Planning

Michael Shklovsky, Esq.

UPE07-0112 Farrow Ready Mix Condition Compliance.

This is a summary of Use Permit requirements and current status by number of Conditions of Approval. You will see there has been progress, but full implementation on most of the conditions is needed.

1. **Building/Demo/Electrical Permits/Grading and Drainage** for site improvements, office, batch plant, sanitation, plumbing, electrical and lighting. **Implementation needed.**

Status Demo **DEM24-0034 submitted 1/23/2024** - to remove fuel tank over 5k gallons. **Accepted, need verification (Final Permit) that it's removed to address violation.**

Status: BLD23-7519 submitted 11/28/23 for office/ADA ramp and parking, batch plant, and accessibility to address violation. – Deposited check with State HCD for inspection of premanufactured office coach. Building permit required for plumbing, sewer, and electrical connections, ramp and accessible parking. **Need verification on this and full compliance with CBC, including accessibility, restrooms, structural on batch plant, electrical etc.**

Batch Plant applied for under same BLD - **Structural under way.**

Permit Sonoma technician Nicole Kinahan indicates Batch plant will need its own separate building permit (See Accela communications tab). Demo permit required for each tank or structure removed.

Status: Electrical/lighting – Applicant's consultant scheduled to review site on Dec. 27, 2024 to produce as built.

Grading/drainage, and site improvements:

Status: Implementation needed to show site improvements for grading drainage and parking areas.

2. Conditions 2. 3. and 4. Accessibility of building, restrooms, and parking required per CBC.
3. See 2. above
4. See 2. above
5. Current codes apply.
6. Connection to public sewer and water required. **Implementation Needed.** Will serve letters required. **Need will serve letters or clearances from City of Windsor water and Sonoma water (Sanitation).**
7. Sanitation facilities required. **Implementation Needed.** **Status SEW23-0141 for onsite lateral submitted 11/27/24** with owner's authorization. Notes indicate separate permit required for connection to coach and assessment of sewer fees.

1/30. SEW16-0197 and ENC 16-0289 Finaled for off-site lateral/main.

8. Safe potable water. **Implementation needed to connect water storage and office coach to water supply.**
9. Hazardous waste and tank compliance. **Implementation needed. Obtain clearance from County Fire and Emergency Services.**
10. Comply with General Plan noise requirements (operational).
11. Need compliant garbage and refuse containers. **Documentation needed.**
12. Construct sewer mains. **Done by property owner.**
13. Sanitary sewer main plans required. **Done by property owner.**
14. Sewer easements to be granted to Sonoma Water. **Done**
15. Sewer connection permit to building required. **See 7. Above SEW23-0141 pending. Implementation Needed.**
16. Sewer sampling manhole and dual waste lines for domestic and process waste required if applicable. No man hole shown on plans if required.
17. Need SEW prior to BLD **Implementation Needed.**
18. Industrial waste discharge submitted 1/30/24 with SEW
19. Sewer fees to be paid with connection to coach prior to building permit issuance. **Implementation Needed.**

20. Water system to be constructed under County Permit in accordance with City of Windsor standards requirements. Need plan submittal or verification that existing system was built to standards and/or Windsor has signed off. **Implementation Needed.**
21. Need will-serve or clearance from Windsor **Implementation Needed.**
22. Obtain encroachment permits as necessary. **Done**
23. Restoration of public improvements as necessary as a result of off-site sewer. **Done**
24. Record drawing required for sewer mains. **SEW16-0197 Finaled.**
25. No right turn sign required from Copperhill to Brickway. **Implementation Needed**
26. Payment of traffic mitigation fees with building permit. **Implementation Needed.**
27. Drainage and erosion control improvement plans are required with a grading/drainage permit or building permit. **Implementation needed.**
28. Site grading and erosion control plans required. **Implementation needed.**
29. Urban stormwater LID measures are required to address water quantity and quality, unless it is otherwise demonstrated that the project design addresses the requirement. **Implementation needed.**
30. Address NPDES NOI and WDID requirements as needed. Disturbed area is well over an acre. **Implementation needed.**
31. Address Permit requirement limiting truck storage to 8 trucks. Current aerial photos show greater than eight trucks (operational)
32. Comply with all permit conditions. A violation is subject to revocation. **Implementation needed.**
33. Comply with Avigation requirements and record an avigation easement prior to occupancy. **Implementation needed.**
34. Payment of development fees required at issuance of permits. **Implementation needed.**
35. Fire Safe Standards. **Implementation needed.**
36. NOD fee file. **Done**
37. Condition Compliance Review fee. **Fee assessed 1/30/24. Payment of CC fee and all at cost fees to date are needed.**
38. No vesting until payment of all at cost fees.
39. COA to be included on plans. **Implementation needed.**

40. Archaeological discovery note (see 39. Above).
41. Utilize water efficient fixtures per plumbing code.
42. Tree protection required. No tree removal. **Done**
43. Water efficient landscape ordinance. No landscaping. **Done**
44. Operational for providing parking and maintaining landscaping.
45. Workforce housing fees at building permit. **Implementation required.**
46. Final design review required prior to building permit issuance.
Implementation with planning sign off on building permits.
47. Submit lighting plan. **Implementation needed.**
48. 100 watt limitation. See above.
49. Dust suppression requirement/mitigation. **Implementation needed.**
50. Drainage requirement to direct all drainage away from undeveloped portion of property. **Implementation needed.**
51. Manage stormwater runoff in drainage swales to minimize sediment and pollutants leaving the site. **Implementation needed.**
52. Mitigation for CTS Habitat. **Implementation needed.**
53. Spill containment plan. **Implementation needed.**
54. Modifications if proposed require approval.
55. Director Authority to modify.
56. Revocation for noncompliance.