

EXHIBIT A
CITY OF TEMECULA
DRAFT CONDITIONS OF APPROVAL

Planning Application No.: PA21-0007

Project Description: Mad Madeline's Conditional Use Permit: A Conditional Use Permit to allow an existing restaurant to upgrade their current Alcoholic Beverage Control (ABC) Type 41 License to an ABC Type 47 License. The project is located at 28498 Old Town Front Street.

Assessor's Parcel No.: 922-026-008

MSHCP Category: N/A (No New Grading or Square Footage)

DIF Category: N/A (No New Square Footage)

TUMF Category: Per WRCOG Requirements

Quimby Category: N/A (Non-Residential Project)

New Street In-lieu of Fee: N/A (Not Located within the Uptown Specific Plan)

Approval Date: May 5, 2021

Expiration Date: May 5, 2023

PLANNING DIVISION

Within 48 Hours of the Approval

1. Filing Notice of Exemption. The applicant/developer shall deliver to the Planning Division a cashier's check or money order made payable to the County Clerk in the amount of Fifty Dollars (\$50.00) for the County administrative fee, to enable the City to file the Notice of Exemption as provided under Public Resources Code Section 21152 and California Code of Regulations Section 15062. If within said 48-hour period the applicant/ developer has not delivered to the Planning Division the check as required above, the approval for the project granted shall be void by reason of failure of condition (Fish and Wildlife Code Section 711.4(c)).

General Requirements

2. Indemnification of the City. The applicant and owner of the real property subject to this condition shall hereby agree to indemnify, protect, hold harmless, and defend the City and its attorneys from any and all claims, actions, awards, judgments, or proceedings against the City to attack, set aside, annul, or seek monetary damages resulting, directly or indirectly, from any action in furtherance of and the approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board or legislative body including actions approved by the voters of the City, concerning the Planning Application. The City shall be deemed for purposes of this condition, to include any agency or instrumentality thereof, or any of its elected or appointed officials, officers, employees, consultants, contractors, legal counsel, and agents. The City shall promptly notify both the applicant and landowner of any claim, action, or proceeding to which this condition is applicable and shall further cooperate fully in the defense of the action. The City reserves the right to take any and all action the City deems to be in the best interest of the City and its citizens in regards to such defense.
3. Expiration. This approval shall be used within two years of the approval date; otherwise, it shall become null and void. Use means the beginning of substantial construction contemplated by this approval within the two-year period, which is thereafter diligently pursued to completion, or the beginning of substantial utilization contemplated by this approval, or use of a property in conformance with a Conditional Use Permit.
A modification made to an approved development plan does not affect the original approval date of a development plan.
4. Time Extension. The Director of Community Development may, upon an application being filed prior to expiration, and for good cause, grant a time extension of up to five extensions of time, one year at a time.
A modification made to an approved development plan does not affect the original approval date of a development plan.
5. Consistency with Specific Plans. This project and all subsequent projects within this site shall be consistent with Specific Plan No. 5 (Old Town).
6. Conformance with Approved Plans. The development of the premises shall substantially conform to the approved site plan and elevations contained on file with the Planning Division.
7. Modifications or Revisions. The permittee shall obtain City approval for any modifications or revisions to the approval of this project.
8. Bona Fide Eating Place. Type 47 (On Sale General) licensee must operate and maintain their licensed premises as a bona fide eating place. The on-site sales and consumption of alcohol are an incidental and ancillary use to the restaurant use. A licensee is presumed to be operating as a bona fide eating place if the quarterly gross sales of food prepared and sold to guests on the premises exceeds the gross sales of alcoholic beverages for the same period. The licensee shall at all times maintain records which reflect separately the gross sales of food and the gross sale of alcoholic beverages on the licensed premises. The records shall be kept no less frequently than on a quarterly basis and shall be made available to the City, or its designee, upon demand. A full menu shall be available for order during all hours that alcohol is served. The premises where the licensee operates must possess a full restaurant kitchen facility containing conveniences for cooking such as a working refrigerator and cooking devices. The premises must offer sit down meal service and food menus. "Meals" means the usual assortment of food commonly ordered at various hours of the day. The service of only sandwiches or salads is not considered compliance with the requirement to provide meals. The premises must comply with all regulations of the health department.

9. Food Service. The bona fide public eating place shall serve a full menu at all hours that alcohol is served.
10. Statement of Operations. The applicant shall comply with their Statement of Operations dated December 10, 2020, on file with the Planning Division, unless a conflict exists between the Statement of Operations and these Conditions of Approval, in which case the Conditions of Approval control.
11. Revocation of CUP. This Conditional Use Permit may be revoked pursuant to Section 17.03.080 of the City's Development Code.
12. City Review and Modification of CUP. The City, its Director of Community Development, Planning Commission, and City Council retain and reserve the right and jurisdiction to review and modify this Conditional Use Permit (including the Conditions of Approval) based on changed circumstances. Changed circumstances include, but are not limited to, the modification of business, a change in scope, emphasis, size of nature of the business, and the expansion, alteration, reconfiguration or change of use. The reservation of right to review any Conditional Use Permit granted or approved or conditionally approved hereunder by the City, its Director of Community Development, Planning Commission and City Council is in addition to, and not in-lieu of, the right of the City, its Director of Community Development, Planning Commission, and City Council to review, revoke or modify any Conditional Use Permit approved or conditionally approved hereunder for any violations of the conditions imposed on such Conditional Use Permit or for the maintenance of any nuisance condition or other code violation thereon.
13. Posting of Local Transportation Providers. An 8.5" x 11" (or larger) sign listing local transportation service providers and corresponding telephone numbers shall be posted at a conspicuous location within the building. Information to assist in the compilation of this sign may be obtained through the Temecula Valley Chamber of Commerce at (951) 676-5090.
14. Hours of Operation & Termination of Alcohol Sales. The hours of operation for this Conditional Use Permit shall be as follows:
Monday: 8:00 A.M. - 10:00 P.M.
Tuesday: 8:00 A.M. - 10:00 P.M.
Wednesday: 8:00 A.M. - 10:00 P.M.
Thursday: 8:00 A.M. - 10:00 P.M.
Friday: 8:00 A.M. - 10:00 P.M.
Saturday: 8:00 A.M. - 10:00 P.M.
Sunday: 8:00 A.M. - 10:00 P.M.
These hours of operation shall supersede any previous Conditions of Approval, and take precedence over any other Conditions of Approval in this document that may reference operating hours and times. Hours of operations may be altered temporarily with the approval of a valid limited duration temporary use permit. Hours of operations may be permanently altered only by an approved amendment to this Conditional Use Permit.
Under all circumstances, including instances where the establishment closes earlier than the above listed times, the last call indicating the termination of the sale of alcohol shall be no less than one half (1/2) hour prior to closing for all nights of operation.
15. Termination of Alcohol Sales. The last call indicating the termination of the sale of alcohol shall be no less than one half (1/2) hour prior to closing for all nights of operation.

Prior to Release of Power, Building Occupancy or Any Use Allowed by This Permit

16. Compliance with Conditions of Approval. All of the foregoing conditions shall be complied with prior to occupancy or any use allowed by this permit.

POLICE DEPARTMENT

General Requirements

17. Type 47 License. The applicant has applied for a Type 47 On-Sale General – Eating Place (Restaurant) which authorizes the sale of beer, wine and distilled spirits for consumption on the licensed premises and authorizes the sale of beer and wine for consumption off the licensed premises. Applicant must operate and maintain the licensed premises as a bona fide eating place. Minors are allowed on the premises.
18. Consumption of Alcoholic Beverages in Public Prohibited. The applicant shall comply with Temecula Municipal Code Section 9.14.010, Consumption of Alcoholic Beverages in Public Prohibited.
19. Ensure No Alcohol Sold or Consumed by Person Under the Age of 21. The applicant shall ensure that no alcohol is sold to or consumed by any person under the age of 21.
20. Identification Verification. Identification will be verified utilizing one of the following: (a) valid California driver's license; (b) valid California identification card; (c) valid military identification card (active/reserve/retired/dependent); (d) valid driver's license from any of the 50 States or Territories of the United States; (e) valid U.S. Passport; (f) valid government issued identification card issued by a Federal, State, County or City agency.
21. Acceptable Forms of Identification. As noted above, only a valid government issued identification card issued by a Federal, State, County or City agency is acceptable, providing it complies with Section 25660 of the Business and Profession Code (B&P), which includes the following requirements: (a) name of person; (b) date of birth; (c) physical description; (d) photograph; (e) currently valid (not expired). It is the responsibility of the business owner and any person who serves or sells alcohol to be aware of current laws and regulations pertaining to alcoholic beverages.
22. Section 303 (a) (PC). On-sale licensees may not: (a) employ hosts, hostesses, or entertainers who solicit others to buy them drinks, alcoholic or non-alcoholic; (b) pay or agree to pay such an employee a percentage of the receipts from the sales of drinks solicited; (c) permit any person whether an employee or not, to loiter for the purpose of soliciting an alcoholic drink.
23. Undue Number of Calls for Service. Licensees may not permit their licensed premises to be a problem for the local law enforcement agency by creating an undue number of calls for service. The licensed premise includes the parking lot (Section 24200 (a)(B&P).

24. Maintain Premises as a Bona Fide Eating Place. Type 41, 47 and 49 licensees must operate and maintain their licensed premises as a bona fide eating place. They must make actual and substantial sale of meals, during the normal meal hours that they are open, at least five days a week. Normal meal hours are: breakfast 6:00 a.m. – 9:00 a.m., lunch 11:00 a.m. – 2:00 p.m., and dinner 6:00 p.m. – 9:00 p.m. Premises that are not open five days a week must serve meals on the days they are open. The premises must be equipped and maintained in good faith. This means the premises must possess working refrigeration and cooking devices, pots, pans, utensils, table service, condiment dispensers, menus, posters, signs, and enough goods to make substantial meals. The premises must comply with all regulations of the local health department. Incidental, sporadic or infrequent sales of meals or a mere offering of meals without actual sales is not compliance. “Meals” means the usual assortment of food commonly ordered at various hours of the day. The service of only sandwiches or salads is not considered compliance. However, certain specialty entrees, such as pizza, fish or ribs, and an assortment of other foods, such as soups, salads or desserts, may be considered a meal. The City will presume that a licensee is operating as a bona fide eating place if the gross sales of food prepared and sold to guests on the premises exceeds the gross sales of alcoholic beverages. “Prepared” means any processing preliminary to the final serving of food. (Note: Some licensees have a “conditional” license that requires food sales to be 50% or more of the total gross sales Sections 23038 and 23787 B&P).
25. No Alcohol Sales Between 2:00 am and 6:00 am. Licensees may not sell, give, or deliver alcohol (by the drink or by the package) between 2:00 a.m. and 6:00 a.m. of the same day. No person may knowingly purchase alcohol between 2:00 a.m. and 6:00 a.m. Section 25631 B&P Code). Licensees may not permit patrons or employees to consume alcohol between 2:00 a.m. and 6:00 a.m. of the same day (even if someone bought the drinks before 2:00 a.m. Section 25632 B&P). Some ABC licenses have special conditions (restrictions) as to hours of sale that are stricter than the law. Those licenses are marked “Conditional” (23805 B&P).
26. Inspections. Police officers, sheriff’s deputies and ABC investigators are sworn law enforcement officers (peace officers) with powers of arrest. Whether in plainclothes or uniform, peace officers have the legal right to visit and inspect any licensed premises at any time during business hours without a search warrant or probable cause. This includes inspecting the bar and back bar, store room, office, closed or locked cabinets, safes, kitchen, or any other area within the licensed premises. It is legal and reasonable for licensees to exclude the public from some areas of the premises. However, licensees cannot and must not deny entry to, resist, delay, obstruct, or assault a peace officer (Sections 25616, 25753, and 25755 B&P; 148 and 241 (b) PC).
27. Disorderly House. Licensees may not permit their licensed premises to become a disorderly house. A disorderly house is a licensed outlet (on or off sale) that: (a) disturbs neighbors with noise, loud music, loitering, littering, vandalism, urination or defecation, graffiti, etc; and/or (b) has many ongoing crimes inside such as drunks, fights, assaults, prostitution, narcotics, etc. The licensed premise includes the parking lot (Section 25601 B&P; 316 PC).

28. Employee Training for Identification Checks. The applicant shall ensure all employees involved with the sales, service and identification checks for the purpose of any sales of alcoholic beverages is trained in the proper procedures and identification checks. The Temecula Police Department provides free training for all employers and employees involved in the service and sales of alcoholic beverages. It is the responsibility of the applicant to set up a training session for all new employees. Contact the Crime Prevention and Plans Unit at (951) 506-5132 to set up a training date. Training must be completed prior to the grand opening of this business and periodic updated training when new employees/ management are hired.
29. Questions Regarding Conditions. Any questions regarding these conditions should be directed to the Temecula Police Department Crime Prevention and Plans Unit at (951) 506-5132.