



October 16, 2018

Submitted via e-mail

Blake Hillegas
Planning Supervisor
Permit Sonoma
County of Sonoma

Re: PLP05-0009-VJB August 2018 Updated Application for Amended Use Permit
(September 26, 2018 Referral letter)

Dear Mr. Hillegas,

The Valley of the Moon Alliance (VOTMA) files comments on VJB Vineyard and Cellar's (VJB) latest "update" of its long running effort to rectify the fact that it has been operating a dining, deli, tasting room and occasional event facility in flagrant violation of its existing use permit for close to a decade now. This is the 8th time VOTMA has provided detailed comments on this known and ongoing enforcement lapse by Permit Sonoma. It has been a year since the Sonoma Valley Citizens' Advisory Committee considered VJB's proposal and heard testimony from the public and from you on the litany of VJB's use permit violations. The SVCAC voted **unanimously** at that time to recommend denial of the VJB proposal. As you no doubt well remember, the SVCAC members were incredulous that Permit Sonoma had not over the last several years taken any action to rectify the ongoing use permit violations. Instead, VJB has simply been allowed to continue its rogue operations.

Little has changed in any substantive manner in this "update filing" from VJB's January 2018 revised proposal that was the subject of VOTMA's March 16, 2018 comment letter. (attached) As noted in those comments, the January 2018 proposal was largely a textual rework of the February 28, 2017 proposal, in which VJB requested approval to construct a new parking lot across Shaw Avenue.

Significantly, however, what has changed operationally is that VJB *has already created and commenced operation of the commercial parking lot it proposed to be allowed to construct*. Apparently VJB has concluded that not only will Permit Sonoma **not enforce** the existing conditions on use of the facility (i.e., no commercial kitchen, only prepackaged food, right turn lane from NB Shaw to

Highway 12 required, no egress to Maple) that have created the congestion/concentration nightmare at Shaw/Highway 12, but there is also no need to wait for Permit Sonoma and the BZA to even assess the impacts of creating a 53 car parking lot across the street from the deli/pizzeria/rib shack/tasting room that VJB has become, let alone approve that use permit amendment that is legally required as a prerequisite for such development. That is a breathtaking intentional disregard of normal land use regulation. It also fits a long-demonstrated pattern of practice by VJB to ignore Sonoma County rules and regulations that are apparently bothersome to or inconsistent with VJB's business plans.

VOTMA does not have a precise record of when VJB decided to jump the gun and just create its commercial parking lot (which is available to all users and is not "exclusively" used by VJB's patrons). VOTMA does have pictures of the lot in operation as of April 14, 2018 and most recently on Sunday October 14, 2018. The lot currently contains a dual porta-potty facility which was not in the original proposal. At 2:24 pm on October 14, 2018 the lot had 38 cars parked. At that time there were cars also parked down Shaw Avenue past the park, drawing into question assertions that the creation of the parking lot would virtually eliminate the chronic parking congestion down Shaw Avenue.

VOTMA has raised in its previous comments the various shortcomings with the proposed use permit amendments. VOTMA specifically commented on problems with the W-Tran's Traffic Impact Studies (TIS) that have been filed as part of the six or seven prior VJB "amendment/update" proposals. (see, e.g., comments B1-6 of March 16, 2018 VOTMA comment letter). VOTMA will not restate those and instead incorporates its prior comments in this application by reference.

But VOTMA does want to add one additional comment regarding the absurdity of the game VJB is playing. The August 2018 VJB "Proposal Statement" for the "Modified Use Permit" attaches a May 31, 2018 W-Trans TIS. As indicated above, the VJB Shaw Avenue Parking lot was developed and in operation at least as of April 14, 2018 and certainly earlier than that.

Undoubtedly over the period from April through August, when the VJB update was filed, the parking lot was stuffed with summer tourists, wine tasters, and others frequenting both VJB's facility as well as others tasting rooms and dining facilities located adjacent to the lot (the lot has no sign restricting use to the VJB facility). That peak season time period would have presented a perfect opportunity to closely monitor and document the area traffic impacts of the expanded VJB operations with the parking lot operational. Somehow, however, VJB apparently chose not to, or forgot to do that; W-Trans apparently felt that was not professionally necessary either. Instead, the May 31, 2018 W-Trans TIS continues to use as a measure of "Existing Conditions" its one-time traffic counts taken on Thursday September 21, 2017 and Saturday September 16, 2017. It hardly needs to be said that using a year old traffic count that did not reflect the subsequent traffic associated with the existence of a 53 car parking area on Shaw Avenue adjacent to the location of the

facility subject to the use permit modification, would seem a fatal defect to the credibility of the W-Trans' May 31, 2018 TIS. Permit Sonoma and Cal Trans deserve to be provided a more accurate picture of "Existing Conditions" in light of VJB's unilateral decision to implement the parking lot proposal.

VOTMA appreciates the severe burden that Permit Sonoma has been forced to operate under over the last year. Its resources have been understandably under stress and have been stretched beyond reason. We do appreciate what you do. And we understand that to a large extent you are forced in these situations to rely on the integrity of the applicant. That was clearly lacking here.

Our frustration is that bad actors like VJB have been taking advantage of the gaps in Permit Sonoma resource coverage, and have made apparently conscious decisions to flout the law and simply maintain existing operations in violation of the applicable use permit. Here, VJB has gone even beyond that by extending its conduct to include "self-help" by affirmatively developing a "commercial parking lot" without a permit in hand (note: commercial parking facilities are allowed, with a permit, in zone C-3 [Section 26-34-020(r)], but certainly not clearly allowed by right in zone C-1 [Section 26-30-020]).

VJB's action in undertaking this unpermitted use undoubtedly has generated a sizable number of new patrons (and more traffic) each and every day. That additional traffic puts added stress to the Highway 12/Shaw Avenue intersection that has previously been determined warranted a left turn lane in order to accommodate the addition of 15 special events per year allowed under the use permit. In effect, VJB has offered to relinquish those 15 events in return for obtaining a permanent daily increase in traffic serviced by the 53-car parking lot. The 38 cars in the 75 Shaw Avenue parking lot last Sunday afternoon (and all the cars that preceded and followed them that day), easily constituted the equivalent of an "event" that day.

Under VJB's proposal (and as currently operated by VJB), nothing prevents it from functionally have an additional "event a day" all year long. That was not what was contemplated when the use permit imposed the requirement that a left hand turn lane from west-bound Highway 12 onto Shaw was required before *any* events were allowed. VJB's effort to finesse that safety condition represents an unacceptable increased safety risk and warrants immediate action prohibiting use of the 75 Shaw lot at this time. VJB should not be allowed to continue to benefit from this conduct simply due to a lack of enforcement attention.

The familiar Permit Sonoma refrain that no one has formally complained about VJB and so no enforcement action was technically appropriate is wrong legally, and is belied by the comments and actions of the SVCAC rejecting the VJB proposal and encouraging Permit Sonoma to "do its job" regarding enforcement. VOTMA joins in that request and asks Permit Sonoma to put an immediate halt to both the

unpermitted uses at the VJB facility and the unpermitted operation of a commercial parking lot at 75 Shaw Avenue.

Thank you for the opportunity to comment. Please add this comment to the public file.

Kathy Pons
President VOTMA

cc: Supervisor Gorin
BZA Commissioner Carr
Director Wick
Jennifer Barrett
(above via email)
Henry Belmonte
(via USPS)