



March 16, 2018

Blake Hillegas
Planning Supervisor
Permit Sonoma
County of Sonoma

Re: PLP05-0009, January 2018 Revised Application for Amended Use Permit
(February 22, 2018, Revised Referral)

Dear Mr. Hillegas,

The Valley of the Moon Alliance (VOTMA) files its **7th edition** of comments on VJB Vineyard and Cellar's (VJB) long running saga of periodically filing revised proposed amendments to its 2007 use permit as a vehicle to continue operating in disregard of the conditions for use specified in the permit. VJB has apparently concluded that so long as its has an amended application pending, Permit Sonoma (PS) will not initiate any enforcement action to require VJB to comply with the conditions that PS acknowledged in 2017 before the Sonoma Valley Citizens' Advisory Commission (SVCAC) were not then being honored by VJB as a practical matter. The SVCAC had no difficulty, having heard that testimony and similar testimony by the public, **unanimously** voting to reject/deny approval of the then-pending prior amended application (Referral in PLP05-0009, dated February 28, 2017).

With all respect to the work load of PS in this trying post-October firestorm time, it is VOTMA's view that it is well past the time that PS should initiate action to invoke the provisions of Conditions of Approval #59 in UPE15-0051, which reads as follows: "This permit shall be subject to revocation or modification by the Board of Zoning Adjustments if: (a) the Board finds that there has been non-compliance with any of the conditions or (b) the Board finds that the use for which this permit has been granted constitutes a nuisance. Any such revocation shall be preceded by a public hearing noticed and heard pursuant to Section 26-92-120 and 26-92-140 of the Sonoma County Code."

A. The Present Revised Proposal is Substantially the Same as the February 28, 2017 Referral and Should be Rejected Outright.

VJB did not make available a redline of the most recent proposal (January 2018) compared with the proposal in the February 28, 2017 Referral for a use permit amendment that was filed more than a year ago now. Such a redline would have revealed what was new, where there were inconsistencies in the documents, and the extent to which the documents are almost identical. VJB at least owed PS a clear articulation of what exactly had changed from the 2017 request.

From VOTMA's reading the changes are not dramatic: 1) VJB will now have "exclusive" use of the new parking lot, rather than allowing it to be used also by adjacent commercial tasting rooms/cafe; 2) VJB will not use the nearby dental offices for employee parking on the weekend; and 3) will not use the Wellington property for van and bus parking. Other than that, and being muddled by some confusing statements, e.g., on the referral cover page that there will be "Participation in two industry wide events and wine marker dinners [seemingly not permitted in the existing permit] *during expanded hours.*" (emphasis added), the "revised" proposal seems to read largely verbatim to the proposal text filed a year earlier.

Had PS simply evaluated the facts underlying the application a year ago in the same light as the SVCAC had little problem unanimously doing, and acted swiftly to end this procedural charade by rejecting the amendments, both the Kenwood community and PS could have moved on and left VJB with no honorable option but to simply follow the law and comply with the existing permit conditions.

B. W-Trans' Traffic Impact Study Is Inadequate and Incomplete and Will Not Support VJB's Requested Amendments to the Use Permit.

In fairness to VJB, although the January 2018 revision document is largely the same document text as that submitted a year earlier, it does include as an attachment a new Traffic Impact Study (TIS) by W-Trans, dated February 1, 2018. That study is longer in length and subject coverage than the 3 page report filed a year ago, and does contain new traffic counts for two intersections. But it suffers from the same shortcomings that were apparent in the prior traffic studies submitted by W-Trans in support of the various prior amendments VJB has filed.

1. The W-Trans TIS uses as a baseline the current trip generation associated with activities currently being conducted in violation of the existing use permit.

VJB continues its effort to finesse reality by asserting that there is no traffic problem at the Shaw or Maple/SR 12 intersections created by its requested permit modification because the baseline for assessing those impacts should be the traffic level associated with its current unauthorized use. As VOTMA pointed out in its March 21, 2017 comments (copy attached and incorporated by reference), VJB's

reading of the law on baseline standards is strained at best. The hubris of filing an application to amend a use permit to authorize the unpermitted uses the applicant is already conducting, and then supporting that with a traffic study that finds there is no further impact from the proposed amendment essentially because the adverse traffic impact is already occurring through permit violations, is breathtaking.

2. The W-Trans TIS assumes, without support or logic, that the establishment of a new 53 space parking lot across the street from the VJB facility will not generate any additional patronage, but rather merely move patrons off of Shaw Avenue.

VOTMA is baffled by W-Trans' assumption that the creation of a new parking lot in an already parking constrained area will not generate additional patronage to VJB. If VJB now becomes an easier place to find parking via this lot, its patronage will expand. VJB apparently missed a key line from the movie Field of Dreams—"If you build it, they will come."

Equally confusing is the apparent view that any spaces on Shaw Avenue that are vacated by VJB patrons, who now would instead park in the new lot, will not then be occupied by increased patronage at the various businesses in the adjacent complex (owned by VJB). This lack of awareness is consistent with the blinders VJB and its traffic consultant consistently reveal—that the traffic impact study need not assess the cumulative traffic impacts of the proposal in context, i.e., integrating all proposed, recently completed or expanded activities from projects in the adjacent area (e.g., Kenwood Vineyards tasting room proposal, Palooza expansion, impacts of permitted projects beyond the Shaw and Maple intersection with SR12, and the increased traffic along Los Guilicos Ave. and at the Warm Spring Road/SR12 intersection that will result).

VJB testified at the SVCAC in 2017 that on seasonal weekends its patronage already exceeded 700 customers *per day*. That level likely rivals or exceeds the major wineries and far exceeds the surrounding tasting rooms. The reason for that may be the quality of the wine VJB pours, but is more likely the result of that fact that unlike any of those surrounding tasting rooms or wineries, VJB has impermissibly morphed into a deli and restaurant as well, and thus has turned into a place for patrons to land for nourishment *before* or *after* they have visited other wineries/tasting rooms that follow their conditions and thus cannot offer food service. The addition of a new 53-space parking lot will exacerbate the traffic problems at Shaw, Maple and the surrounding SR12 and adjacent streets.

3. W-Trans' reliance on the Sonoma County Transportation Authority's Gravity Demand Model is misplaced in terms of projection of Future Conditions.

Apparently W-Trans is unaware that the Sonoma County Transportation Authority (SCTA) model does not even collect data for, or model traffic during, the weekend period starting Friday through Monday. SCTA's model captures only Tuesday-Thursday traffic. Further, the model has data gaps in the various Sonoma Valley

traffic zones relevant to assess VJB's situation. As an example, TAZ 129 running along the northwest side of SR 12 west of Kenwood apparently had not been updated to include traffic associated with the proposed Resort at Sonoma County Inn, the constructed new Custom Crush facility in Oakmont, or the long operating St. Francis Winery tasting room. To suggest that the SCTA model, as currently functioning, is an accurate proxy for future movement volumes on weekends (when VJB's patronage is at the highest) at the SR 12/Shaw and SR12/Maple intersections or along the SR12 segment running through Kenwood is simply not supportable.

It bears noting here also that W-Trans' study does acknowledge (pg 10) that "the northbound Shaw Avenue approach to SR 12 is expected to operate at LOS E, which is considered unacceptable under the County's standards...." That assessment is hardly likely to improve if a 53-vehicle parking lot is located adjacent to that intersection on Shaw.

4. W-Tran's TIS must assess the impact of the proposed parking lot on traffic volumes for other surrounding businesses during peak and other hours absent an attendant during VJB's operating hours, and a locked gate on the proposed parking lot when VJB is closed for business.

VJB has indicated that the new 53-space parking lot will be used "exclusively" for VJB patronage. VJB does not indicate whether an attendant will monitor the entrance to the lot during VJB's business hours, or whether a gate will lock the lot and prevent use it use by others during VJB's non-business hours. Without those assurances, the term "exclusively" is simply an empty 11 letter word, and it is reasonable to expect that the lot will remain available to serve other surrounding parking demands. VOTMA is familiar with the way in which the parking area in the Kenwood Village can be used to serve that function. Since VJB is set to continue to close by 4 pm (before the weekday PM peak), any continued use of the parking lot by others will affect the pm peak period traffic. W-Trans' TIS appears to ignore that probable result.

5. The W-Trans TIS soft sells the safety risk of encouraging VJB's patrons to cross Shaw Avenue to/from the parking lot to the VJB's facility.

VJB's apparent disregard for the common-sense safety of its patrons under this proposal is somewhat shocking. W-Trans' observation that "the winery is expected to generate little or no pedestrian travel except between buildings and the parking lots" reminds VOTMA of the caption for a cartoon that appeared in *The New Yorker* many years ago—"Other than that Mrs. Lincoln, how was the play?"

VJB is operating a high volume deli/restaurant/tasting room that already has a traffic congestion problem, with buses, limos, vans, bicyclists and too many cars. It asks that it be relieved from installing a right turn lane from east bound SR 12 at Shaw and a left turn lane from west bound SR 12 at Shaw. The proposed parking lot is not "mid-block" as W-Trans indicates (p.13), but is much closer to Shaw/SR12

intersection than Los Guilicos/Shaw. Cars can also turn on to northbound Shaw from Clyde Avenue. W-Trans' conclusory set up statement that "Given that the sight distance is adequate to allow sufficient visibility between motorists and pedestrians..." has no factual support.

Let's be real here—This is a business that is selling wine as its primary beverage to go along with the variety of food it serves. It is encouraging its patrons to consume alcohol (within limits). Most of its patrons arrive via a busy SR 12 and have to make a quick turn onto Shaw from SR 12, either east-bound or west-bound, and without a designated turn lane in either direction for modulation purposes. The sightlines for both those drivers trying to make those turns and not being hit by other traffic, and the possibly impaired VJB patrons or other patrons who are trying to cross the street from the VJB entrance to the entrance of the parking lot or vice versa, is anything but "adequate."

The risk of vehicle -pedestrian impact seems very real and less than remote. The County should thus not even begin to consider this proposal without a comprehensive and ironclad indemnity tendered by VJB that covers any and all defense costs and liability the County might be exposed to or suffer from litigation generated by virtue of this risky and unsafe invitation to cut across the street from the VJB parking lot to the VJB entrance. This should be a non-negotiable item from the County's perspective.

6. The W-Trans TIS is required to be Peer-reviewed under the County's Traffic Impact Study Guidelines.

PS should reject the tendered W-Trans TIS due to the shortcomings outline above. In any event, because the proposed parking lot and the VJB business is directly adjacent to and affects SR 12 activity, under the County's Guidelines for Traffic Impact Studies, the W-Trans TIS must be subjected to a peer review.

Conclusion

VOTMA will not repeat other concerns (e.g., septic system adequacy, whether industry events and wine maker dinners are currently allowed, patron pedestrian ingress and access to the facility via the Maple Avenue gate after parking on Maple) raised in prior iterations of responses to VJB's proposals to both expand its facilities and receive dispensation for existing violations of the use permit. Those comments are hereby incorporated by reference to save space.

VOTMA concludes by noting that the fundamental problem here is one created by VJB's eyes being bigger than its stomach. It was authorized to construct and operate a tasting room that was also allowed to offer pre-packed/prepared food in addition to wine tasting. It was not permitted to conduct any special events until it had

addressed serious potential traffic issues by constructing left and right turn lanes off of SR12 onto Shaw. It was prohibited from operating a commercial kitchen, yet has morphed into a deli, pizza, BBQ joint and lunch/early dinner venue that attracts 700+ patrons per weekend day in good weather. It has overbuilt a facility in relationship to the functional use permit authorization, and has been wildly successful in doing so. It sees the need/opportunity to build a new parking lot to house the vehicles of even more patrons, and somehow believes that creating more parking will reduce the already existing traffic congestion and access problems rather than exacerbate them. Finally, it wants to be relieved of the original restrictions on operations (i.e., no large special events [15 per year with a maximum of 100 persons per event] that will generate unusual traffic), even as it packs in the equivalent of 7 special events every weekend day during the fair weather season. PS should not allow VJB to expand its stomach by approving this parking proposal and releasing VJB from the obligations to make improvements on SR 12 to make access to its facility safe. The Kenwood community will be the ones left with the resulting increased indigestion.

As to VJB's underlying proposal that its existing conditions of approval should be ignored, relaxed or reconciled to allow VJB to continue to operate in non-conformity, PS should resolve this existing community stomach ache by rejecting the proposed amendments and simply require VJB to promptly come into conformance with all existing conditions.

Thank you for the opportunity to comment. Please put this letter in the public file for this docket. VOTMA requests that it be put on the notice list for any action in this proceeding (info@VOTMA.org). VOTMA hereby objects to any proposed Waiver of Hearing in this proceeding.

Regards,

Roger Peters

Roger Peters
VOTMA Board Member

cc: Henry Belmonte
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