October 18, 2016

Design Review Committee

County of Sonoma

c/o DRC Secretary: Chelsea Holup

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Re: DRH16-0006-The Resort at Sonoma County Inn

Committee Members,

**INTRODUCTION**

After languishing for well more than a decade, the proponent of The Resort at Sonoma County Inn (The Resort), has finally filed for discretionary design review of its plan to develop the project. The Valley of the Moon Alliance (VOTMA) files its supplemental comments (see, VOTMA initial comments, August 26, 2016) addressing this application as it approaches a Design Review Hearing on October 19, 2016.

VOTMA has specific comments, questions and objections relative to whether the design and its associated impacts satisfy the Conditions of Approval for the Inn/Spa/Restaurant adopted almost 12 years ago now. More fundamentally, however, VOTMA believes that the passage of time due to the applicant’s (or its predecessors’) own failure to proceed, and the accompanying substantial changes in circumstances and new information of substantial importance, both at the project site and within the project area of northern Sonoma Valley, will require major revisions of the previous EIR (see, CEQA Guidelines, section 15162). Rather than engage the Committee’s time and energies now to review this application, it would be more appropriate to suspend this proceeding and allow the Permit and Resource Management Department (PRMD) to instead undertake the CEQA Environmental Checklist review for Section 15162-15164 findings to confirm that a subsequent EIR is now required for this project. The results of that work would ultimately impact project design issues.

**A. The Resort Has Languished for More Than a Decade in the**

**Face of Significant Change: CEQA Requires a Subsequent**

**EIR in this Circumstance**

CEQA review is to some extent always a moving exercise—trying to identify whether a project will have significant effects on the environment as then exists or is reasonably contemplated to change in the near term horizon. The lead agency must balance what is then known or reasonably foreseeable in terms of existing environmental conditions and the significant adverse effects the project might impose, with the project proponents’ need for a reasonable measure of finality and certainty for commercial or other purposes. Had the initial applicant promptly proceeded with the project a decade ago it would not have faced the situation now at hand—a stale environmental assessment in the face of more than a decade of changed circumstances and new information about significant effects relating to the project that have emerged in Sonoma Valley and the Kenwood area of State Route 12 (SR 12).

CEQA clearly contemplates (Public Resources Code 21166 and Guidelines 15162) that situations may occur where major revisions of the previous EIR are required because new significant environmental effects or substantial increases in the severity of previously identified significant effects are present due to changed circumstance, or where new information is apparent that will cause significant effects not previously identified or, if identified, that will now be more severe based on more current knowledge. This is the risk an applicant takes when a project is allowed to languish for so long, as it was here.

It is also a risk that can and should be understood to be particularly exposed where the prior EIR finds, as was the case here, that there would be adverse environmental effects of the project (e.g., traffic) that were significant even *after* all feasible required mitigation efforts were taken into account. In that situation, by law the decision maker is authorized to adopt a statement of overriding considerations approving the project based on a balancing of the broader public and economic benefits of the project against the undesirable environmental effects.

But such benefits (e.g., increased tourism) are necessarily projections and somewhat ephemeral. They are also subject to be overtaken by other forces, including changed circumstances resulting from the passage of time. This project presents that very situation-- where the projected positive tourism benefits perceived in 2004 run headlong into the negative realities of now greatly increased traffic, and overconcentration of winery and other events in this portion of SR12 as of 2016. Those very concerns and considerations were what prompted the Board of Supervisors on October 11, 2016 to instruct PRMD to develop an ordinance to essentially begin to establish some rational regulation and control of an ever-increasing wine tourism event syndrome that threatens to overrun Sonoma County, including the Sonoma Valley area of the project site. In approaching possible design review approval for a project, those forces may not be ignored.

VOTMA can only speculate at this point whether that balancing process for this project, if done today in the light of a subsequent EIR that reflects 2016 baseline environmental conditions, would tilt ultimately in the same direction as it did in 2004. As the Chair of the Sonoma Valley Citizens Advisory Commission (SVCAC) summarized on September 28, 2016, as the SVCAC voted not to approve The Resort’s proposed design—there is a real fear that the scale of this project is “overwhelming” for the Kenwood community, and a sense that it needs to be seriously reconsidered. The northern Sonoma Valley has changed dramatically over the last 15 years when the framework and business case for developing a spa and resort at the foot of Hood Mountain was sketched out in the initial application.

**B. New information not available in 2004 and substantial**

**changes since that time with respect to the circumstances**

**under which the project was undertaken suggest that if**

**allowed to proceed now The Resort will have new significant environmental effects or a substantial increase in the severity**

**of previously identified significant effects.**

VOTMA has not been on The Resort project site for a very long time. As such, it is not possible for VOTMA to articulate with precision how environmental conditions on the site have changed over the last 12-16 years since the studies for the 2004 EIR were conducted. VOTMA is in a better position to comment on the changed circumstances and new information about increased traffic on SR12 and the drought that Sonoma Valley has experienced over much of the last five years. It can also address how the array of 1) developed projects that have been constructed in the intervening period, 2) projects approved but not yet constructed and 3) projects proposed but not yet approved have already set the stage for enduring structural congestion in the road segments passing by The Resort from Melita Road to the west and Arnold Drive/Madrone Road and beyond to the east along SR12. The Resort will only worsen a now negatively altered habitable horizon.

VOTMA briefly mentions some of those facts and circumstances that require subsequent analysis.

**1. Drought and Water-Related Circumstances**—The EIR appears to have addressed the hypothetical 1-2 year drought scenario (1976-77 drought years; 1987-88 water year). Yet, four of the last five water years in Sonoma County and Sonoma Valley have been drought years that have resulted in reduced surface water flows, groundwater level fluctuations and likely increased pumping, arid surface conditions for plants, trees and animals, and general anxiety within the population (see, Sonoma Valley Groundwater Management Program-2015 Annual Report [2015 Annual Report]). The Governor, the State Water Resources Control Board, the Board of Supervisors, the Sonoma County Water Agency and other cities and local water providers have declared water emergencies and urged/directed all consumers to conserve, reduce and reuse water resources. The entire State is engaged in the process of developing groundwater management plans as required by a new law to begin to address the need for a more sustainable approach to groundwater use. The Resort project is located within the boundary area of the existing Sonoma Valley Groundwater Management Program (SVGMP) adopted by the Board of Supervisors in 2007, after the EIR was certified.

The applicant stated at the SVCAC project review on The Resort, that during the recent drought period, and indeed since 2004, The Resort has not been tracking or testing the water levels in its two wells. It is fair to assume that since the project was put into cold storage no effort whatsoever has been made to ensure that the trees and other vegetation, let alone the animals, located in The Resort project area (including the surrounding forest area screening the project from SR 12 views) had adequate water to avoid stress, disease or death. Yet the use permit that the applicant relies on for justification for its right to proceed clearly contemplated a Vegetation Management Plan would be in place alongside the development in order to preserve both trees and other vegetation requiring special attention. As of 2016 there is no public information regarding the effect of the drought on both the site itself and the underlying water supply.

There is public information in the 2015 Annual Report and information available from the Department of Water Resources relating to certain wells in the immediate area. As indicated in VOTMA’s initial comments in this application (which comments are hereby incorporated by reference), two of the DWR wells relied on in the EIR show significant changes in water levels as of the most recent DWR reported data (see, [www.water.ca.gov/waterdatelibrary/](http://www.water.ca.gov/waterdatelibrary/); Stations 384437N1225793W002 and 384310N1225745W002).

Both the recent drought and the longer-term question of the status and sustainability of the Kenwood Valley Basin (Basin 2-19) as part of SVGMP represent new information and changed circumstances not present or adequately assessed in 2004. In light of increased California and federal concerns about the climate change impacts from on-going global warming, and the growing attention to the future variability of sustainable groundwater resources in Sonoma, a subsequent environmental impact report of The Resort is required to address this significant changed circumstance/new information.

**2.** **Traffic and Transportation Circumstances**—Few who live in the Sonoma Valley would disagree with the observation that since 2004 there has been a significant and adverse change in the traffic in the segments of State Route 12 from Melita Road to Madrone Road and beyond. Traffic to and from The Resort, both during construction and once operations commence, will be loaded on to the current and anticipated flow. The increased traffic raises traffic and safety issues that are more severe and intensive than previously assessed.

Increased daily work commuter traffic between Santa Rosa and Sonoma/SR 116 /SR121, in both directions, has resulted in traffic congestion at am/pm peak periods. On weekends and through much of the spring and summer, weddings, winery special events, other special events at wineries and elsewhere, wine-tasting buses and limousines, as well as a steady stream of wine-tasters and recreational enthusiasts in personal vehicles flood this segment of SR 12. This summer one event at the Ledson Tasting facility backed out onto SR 12, where participants parked their vehicles on both sides of SR 12 in both directions from the Ledson entrance.

Other than the Las Ventannas Sonoma project, for the most part the expanded cumulative project list in The Resort EIR (EIR 9.0-27 et seq) has both come to fruition and done so in a manner that included expanded authorized (and perhaps unauthorized) events. Since 2004 new projects have emerged, and in some cases are already in operation. These new projects include the proposed Sonoma County Trail (bike/ped) running along SR 12 in front of The Resort, a proposed 778 unit Elnoka senior living project, the 70+ unit Oakmont Gardens Assisted Living/Memory Care project, a new custom crush facility and tasting room across from Oakmont (operating), two other wineries with tasting rooms across from Oakmont (pending construction), the Ledson Cunningham Winery/Tasting Room across SR 12 from The Resort (application filed), multiple stand-alone tasting room facilities in Kenwood along SR 12 (in operation, with additional applications pending), the VJB Tasting Rooms and Deli (in operation), and Kenwood Vineyards’ proposed new tasting room facility with proposed events and winetasting generating an increase of 50,000 or more visitors per year (application in process). These proposed or operating facilities are on top of the increased intensity of use by the existing event generating facilities. The result is that wine and event tourism (and thus traffic) has become significantly over-concentrated in this segment of SR 12 that is also being more severely affected by increasing weekly commuter and work-related traffic since the EIR for The Resort was certified in 2004.

These observations and impacts are not conjecture. They can be found discussed in the Sonoma County General Plan 2020 EIR (4.2 Transportation), which projects a level of service E for the area around The Resort by 2020. The General Plan 2020 Circulation and Transit Element acknowledges the increasing event-related traffic issues (at section 7.9). The congestion in this segment is noted in the California Department of Transportation’s 2014 “Transportation Concept Report SR 12 (West).” Just last week these same factors undoubtedly contributed to the Board of Supervisor’s action to direct PRMD to develop an ordinance to address and contain the adverse environmental effects of overconcentration of winery events.

The reality is that as The Resort project has languished for more than a decade, the new projects and cumulative effects of anticipated and known projects that have materialized have rendered the traffic and transportation portions of the certified EIR stale and inaccurate. New information is now known and the *actual* impacts on the ground as time has passed are already more severe than projected. An EIR that did not even project impacts beyond 2012 simply cannot be the evidentiary basis to support a discretionary action taken in 2016 with clearly conflicting more severe effects that are already readily apparent. CEQA specifically directs that in such situations a subsequent EIR is required.

This result is hardly remarkable. One needs to look no further than the Sonoma County “Guidelines for Traffic Impact Studies” (May 2016) to appreciate that traffic studies in discretionary permitting contexts are very time-sensitive:

“For projects that have languished and/or are being resubmitted, all previous traffic studies relating to the development that are more than two (2) years old will have to be updated. A previous traffic study that is less than two (2) years old for the development under review will *only* be acceptable if the context in the general area has not changed significantly (i.e., new development, changes in roadways, and/or land use or area plans have not occurred since preparation of the report).” (*Id.* at p. 2, emphasis in original.)

Since The Resort project’s previous traffic studies are more than two years old, and the “context in the general area” has changed significantly due to the additional development and resulting traffic noted above, the County’s Guidelines *require* an updated traffic impact study. This has not been done.

**3.** **Forest and Habitat Circumstances**—Forest and surrounding habitat and biology change over time. Trees that were still saplings in 2004 may grow into trees protected by the Sonoma Tree Protection Ordinance by 2016. Species that were a mile or so away from the project site in 2002-03 when studies were completed may have migrated into the languishing project site by 2016. Trees that were healthy in 2004 may be stressed, diseased and dying in 2016 from more than 4 years of drought or just as a result of age, disease and weather events. Time, specifically substantial periods of time as here, changes all. Circumstances in The Resort project area are not immune from this reality.

**a.**  **Trees**--VOTMA has no sense of the present condition of the trees and forest/woodlands habitat at the project site. When the Sonoma County Inn proposal was filed almost 15 years ago now, thousands of trees were proposed to be cut to make room for The Resort and other facilities assessed in the EIR. Some were to be cut to meet fire management requirements, others to make room for buildings, pools and spas, and parking lots.

With the passage of time and the specific proposed design the tree count has undoubted changed. At the SVCAC meeting the applicant represented that the number of trees to be removed had been reduced, based on a tree inventory by applicant’s arborist has not been made public. The aftermath of the 4-year drought has likely increased the fire management tree removal numbers. What has not changed is the County’s requirement that the project retain “as many trees as possible” (Conditions of Approval #99). Those trees create habitat to shelter plants and animals. Those trees provide the visual barrier that was anticipated to hide The Resort from the scenic view of the Hood Mountain area from the SR 12 (Conditions of Approval 99c). Should those trees not be able to function as aesthetic mitigation in the manner contemplated when the EIR was certified, due to either project design or the need to remove more than contemplated due to drought, disease or other factors, the environmental effect would be adverse and severe. The County needs more assurance on this mitigation issue today than can be given by reliance on a EIR that is more than a decade old where the water and drought conditions have been so extreme in the interim.

At the SVCAC hearing the applicant’s representatives/consultants referred to a recently updated tree survey to provide a sense that it was addressing this issue responsibly. VOTMA appreciates that the applicant saw the clear need to undertake such a study. That will be a helpful start for the County to carry out its responsibilities under CEQA to undertake a subsequent assessment that is available for public review and comment before the County can rely on it to take any further discretionary action in the application. This assessment would be a part of the subsequent EIR process.

**b.** **Changed Biological Resources: Northern Spotted owls**—Just as the forest and woodlands and associated habitat have likely changed over time, so too species may have relocated into the project area. VOTMA notes that in the initial EIR the Northern Spotted Owl (NSO) was identified as inhabiting the area and that “the nearest known spotted owl nests are over 1.3 miles away from the site in Annadale State Park to the west… (EIR 5.6-12). VOTMA assumes that over the last 13-14 years, since the field study work was completed, it is possible that the NSO could have taken up habitation in the functionally abandoned project site. The EIR acknowledged that possibility, stating “there is a possibility that new raptor nests could be established on the site in the future before any construction proceeds….”

VOTMA understands that the State of California recently added the NSO to its endangered species list. Given the passage of time and the absence of activity on the site, as well as the potential for nesting habitat of an endangered species within the project area, the subsequent EIR should also include addressing this potential significant impact.

**C.** **The Project Design Does Not Comply With Key Elements of**

**the Conditions of Approval and the Required Mitigations.**

VOTMA reviewed the proposed design/layout and landscaping for The Resort circulated for referral in August 2016. Our previous comments addressed some concerns based on that review. Other concerns have arisen as a result of the SVCAC presentation. We heard there that the applicant was going to be submitting a revised design proposal that removed some of the elements that would have constituted a revision of the project as approved by the Board of Supervisors (e.g., wedding meadow, sculpture garden, pulling in parking that had been located in the undisturbed zones).

At this point VOTMA has not seen a public revised design proposal. Nor has VOTMA received a Staff Report outlining PRMD’s assessment of the current design proposal. In view of that, it seems inappropriate to hold a Design Review hearing on October 19th. The public, particularly those living near The Resort and those frequently passing by the project site on SR 12, should be given the opportunity to actually review the project that is ultimately proposed for approval. The procedural defects of the present approach seem evident. VOTMA attempted to review the project file on October 10, 2016, but was advised by the PRMD Records desk that the file was not available for viewing, as it was dispersed within the office in preparation for the October 19 hearing.

With that backdrop, VOTMA outlines its concerns with the proposed design/layout and landscaping of The Resort, as it now understands that proposal. It reserves the right to raise additional issues once applicant’s revisions and PRMD’s staff documents become publicly available for review.

**1.** **Visual Aesthetics**— The applicant represented at the SVCAC meeting that the daytime visual appearance from SR 12 at Landmark and on Adobe Canyon Road will essentially be no different than as depicted in the EIR (and by implication asserted that the view from SR 12/Lawndale Road was similarly unchanged).

It was difficult to assess that representation or its translation to the visual eye in real-time space by the photo-board presented at the SVCAC meeting. VOTMA is not sure that the scale of the photo matches the distances and perceptions that an individual would have who is actually standing at or driving by the spot depicted. Beyond that, there was no way to integrate into that depiction how well the site would remain concealed after all necessary fire management and other project related tree removals *as of 2016* had been completed. VOTMA and PRMD are apparently left to take the applicant’s word for the fact that the tree removal effort now required (12 years after the EIR was certified and after a 4 year severe drought) would not leave The Resort’s structures and associate physical impacts (cars) no more exposed to SR 12 view during the day.

The applicant should be required to provide a detailed accounting of the trees it contends are essential to be removed, both for fire management and project development purposes. Applicant should also develop a more sophisticated visual simulation of the project’s visual exposure than a two dimensional exposure at a single point in time during the day. This simulation should reflect the view with the trees on the removal list already eliminated. Overlaying the project buildings on to the current forest view without those trees removed overstates the visual shelter effect.

Nowhere, to VOTMA’s knowledge, has the applicant made any effort to try to project how visible the current design of The Resort would be from those same vantage points (including Lawndale/SR 12) during the *night hours*. It is self-evident that this project sitting on a plateau would create a “lantern effect” in the dusk and the evening. VOTMA is concerned that the lantern effect of the current proposal would similarly be compromised by the condition/density of the remaining trees after fire and design-directed removals have occurred. VOTMA raised this issue in its initial comments and asked for further clarification by model or other appropriate technology that could project that effect. So far the applicant has not responded other than to provide a single daylight picture at the SVCAC.

This issue is particularly relevant where, as in the proposed design, the entire south-facing roof has been eliminated and the exposed area has been transformed into a lighted balcony terrace with a bar and presumably night lighting. VOTMA can imagine that substituting that lighted balcony terrace for a south facing roof could both a) allow light from the open center outdoor restaurant to seep up into the night sky by leaking across the south edge of the lower back (north) edge of the terrace *and*b)at the same time allow more light to flow up the south wall windows from the second and first floor meeting rooms and other south-facing rooms of the Inn. With no roof overhang and only progressively inset wooden trellises on the first and second floor to capture leaking light, the lantern effect would seemingly be intensified significantly on the south side, as more direct light pierced the south visual area and the night sky above. The external perception of The Resort as the restaurant and Inn lingered open until ***12 am*** every day of the week could be quite harsh and adversely compromise “dark sky” requirements. The proposed design to eliminate the south-facing roof and establish an open terrace lounge should be rejected as inconsistent with the requirement to minimize additional light seepage. Instead, the roof design that matches the rest of the upper area should be retained.

**2.** **Parking Issues**—VOTMA is concerned about the proposed change in location of parking areas at The Resort, the aggregation of cars into greater numbers at the identified locations, and ambiguity as to the permitted users and the resulting impacts on the adequacy of parking on the project site.

As observed in the initial VOTMA comments, the parking plan has been significantly altered. Parking that was to occur on the southwestern side of the Inn had been moved to the northeastern outer edge and up to the front area of the Inn and Spa. On the eastern side of the project parking that was to be more immediately adjacent to the cottages and parked in closely-- headlight to headlight-- has now been partly relocated to a larger long string of valet-parked cars with auto headlights facing to the east into the forested area beyond, thus seemingly pointing toward Adobe Canyon Road.

These changes would have potentially significant effects. The initial design concept presumably was that parking would be closely adjacent to the cottages, thus giving a feel more consistent with the “retreat” concept of The Resort. Guests decamped from their autos directly to their cottages and then enjoyed walking to the Inn and Spa and on the trails.

By moving parking from the immediate vicinity of the cottages to a valet parking setup closer to the Inn, it would seem that The Resort is orienting itself more to optimize restaurant patronage and meeting room use from non-guests. VOTMA understands that business motivation, but it comes with several costs. First, the new valet parking framework appears to require the removal of 50 trees or more in that location that would otherwise have been retained. That would violate the requirement that the applicant retain “as many trees as possible” on the Inn/Spa site. Second, the shift from headlight-to-headlight parking to east-facing open headlights would presumably have an effect on the night habitat somewhat like searchlights--directly exposing and disrupting the forest and woodland areas beyond until 12 am every day. That would violate Conditions of Approval 97 requiring minimization of lights into the forest habitat. Condition 97-4b provides that in order to further protect wildlife habitat resources, “lighting shall be carefully designed and controlled to prevent unnecessary illumination of natural habitat on the site….”

The applicant’s landscape consultant stated at the SVCAC that this approach was beneficial because it would reduce the amount of paving that would otherwise occur under the original design. VOTMA can see that benefit, but is unable to process the implications of that in terms of impact on wildlife habitat, as well as effect on stormwater runoff and groundwater recharge. Perhaps the impervious load in the original design can be addressed using different porous road and parking materials at the original identified locations approved as part of the use permit.

VOTMA notes that Referral DHR16-0006 now shows that parking has been added to the Spa (8 spaces), that six (6) spaces have been added on the western edge of the Inn driveway (DWY 6) and a “Support Building” with ten (10) parking spaces has also been added to the western edge of DWY 6. Applicants have not explained the function of the Support Building (a new structure) or the purpose of relocating the 24 spaces to the western front edge of the Inn and Spa. VOTMA understands that the original parking for one southwest cottage areas did run into some fire protection conflict issues, but a more complete for this significant parking shift is needed.

Finally, there is the issue of worker parking. At the SVCAC meeting the applicant was asked where the employees staffing the Inn, Restaurant and Spa were going to park. The applicant was not able to provide an answer to the query.

VOTMA understands that the proposed design for EIR purposes contemplated that worker parking would occur in a specified lot at the Winery, with workers being shuttled up to The Restaurant/Spa/Inn. Since the Winery is not being constructed at this point, that would seem to leave the employee parking requirements as an orphan.

At this point VOTMA does not have a good sense of how the overall parking demands will be addressed and allocated. The applicant should provide detail as to whether and how The Resort, as a stand-alone project as currently proposed, contains adequate parking for the Inn/Spa/Restaurant /Cottages, by guests, day-users, and staff needed to operate those facilities. From VOTMA’s perspective the stand-alone design for The Resort does not appear to contain adequate parking, especially with the employee parking requirements factored in.

**3.** **Pools and Water Conservation**—VOTMA notes that the proposed project design for the Spa now includes a new outdoor pool and that the two pools south and below the Inn have been consolidated into one seemingly larger infinity pool. VOTMA is not able to determine whether the outdoor pool at the Spa was offset by reductions in water facilities within the Spa building.

In view of the uncertain water situation within Sonoma Valley over 4 of the last 5 years and the general need for more sustainable approaches to water and energy use (infinity pools have higher evaporation rates and generate higher pumping loads and energy use), VOTMA questions the wisdom of approving design proposals that are inherently less efficient or redundant to otherwise adequately provided uses. The purpose of the outdoor spa pool is unclear; the functional effect of one larger consolidated infinity pool at the Inn is unclear.

VOTMA recognizes that the applicant indicated at the SVCAC meeting that it would be staying within the average annual groundwater use limits set forth in the use permit (Conditions of Approval #59—19.4 acre-feet per year from the Resort Well (i.e., excluding the winery and use by the residential parcels)). That seems like a reasonable affirmation on its face. But VOTMA suspects that issue is not so straightforward, and that the applicant’s offer may be a bit of an empty gesture.

VOTMA believes that for water use-related design approval purposes two additional factors should be considered. First, VOTMA notes that in Exhibit 5.54 (Revised) of the EIR (page 9.0-96) the applicant *revised* its estimate of water use for The Resort from 19.4 acre-feet per year down to 16.3 acre-feet per year. Apparently by administrative error that revision was not captured in Condition 59. That administrative correction should be made now for purposes of design review and compliance purposes. Second, VOTMA raises the question whether after almost 12 years of water efficiency technology improvements since the permit was approved, it might be more appropriate to approach 2016 design review and approval for The Resort for water and energy efficiency purposes through the lens of *current* design efficiency industry standards. The water use demands would presumably drop as a result.

VOTMA thus recommends that for design review purposes the applicant be required to stay within a 16.3 acre-feet per year groundwater budget and that the design be required to apply current industry standards for water use and energy efficiency. VOTMA recognizes that this approach may require the applicant to revise its water use plans by altering the outdoor SPA pool and/or the larger Inn infinity pool.

**4.** **Tree Removal and Vegetation Management Plan Design Issues**

In Sections A and B1 above VOTMA outlined its concerns over the health of the trees in and around The Resort project area. Given the passage of time, the design/landscape review should intensely focus on whether the current and expected conditions of the forested area—both the health of the trees that will remain and the absolute number and locations of the trees proposed to be removed – will end up compromising the visibility of The Resort within the northern Sonoma Valley (including the north-facing residents on the southern mountains of the Valley). This is a design review issue given the role the trees play in sheltering The Resort from view. The review should be at least as rigorous as that applied when considering design issues under the Taylor/Sonoma/Mayacamas Mountains local design guidelines. (Sec. 26-90-120).

But this review also requires that attention be paid to mitigating potential impacts on the natural habitat itself. The trees and other vegetation matter for purposes of retaining the screening function they will serve; but they matter for their own inherent value as well. This fact is clearly dictated by Conditions of Approval #93-98. Among other things those conditions required that the applicant prepare a development plan that minimized the loss of woodland and forest habitat on The Resort site, prepare a Vegetation Management Plan to address protection and management of woodland, forest, riparian, chaparral, wetland, and grassland habitat on The Resort site, and provide a program addressing loss of trees (including provisions of watering of replacement trees during the dry season).

VOTMA questions whether applicant’s predecessors engaged in any meaningful stewardship to maintain and improve the health of the forest and woodland cover in the decade between when the project was approved in 2004 and when the applicant purchased it in 2014. If stewardship did not occur, that clearly is not the applicant’s fault; but the applicant must fairly bear the consequences of that inaction as it now seeks design/landscape review and approval.

The applicant should provide the arborist’s survey that was recently completed. If that study does not assess the health of the forest then a further study would be appropriate. The applicant should also detail whether there is an existing Vegetation Management plan in place and whether and to what extent that plan has been updated and complied with in the period since 2004. It is apparent from a review of the Conditions of Approval that the Board of Supervisors was appropriately concerned about the *ongoing* health and maintenance of the forest and woodland cover when its approved the requested use in 2004, and that it expected and required the applicant to be a proper steward of that natural resource as a condition of granting the permit. The applicant must establish that such action was undertaken as well as bearing the affirmative burden of establishing that its proposal has retained “as many trees as on the project site as possible,” (Condition 99). Applicant must also establish that the landscape and tree removal program complies with the 2004 mandate that “existing trees in the area between the inn/spa/restaurant/and SR 12 shall be preserved to the maximum extent possible in order to provide a screen and minimize the amount of buildings that can bee seen from SR12 west of Adobe Canyon Road.” (Condition 99c) Applicant has not demonstrated this compliance affirmatively in its application.

**5.** **Design Issues Associated with Permitted Activities**

At the SVCAC meeting the applicant indicated that certain proposed development areas would be eliminated in the revised proposal because they extended beyond the disturbed activity zone (e.g., the proposed wedding meadow, the sculpture garden, the tennis court). That in turn led to a further discussion of permitted activities in The Resort project area. The SVCAC suggested that the applicant needed to provide clarity on the types of events and activities it intended to host at The Resort. VOTMA has not seen any subsequent response from the applicant on this issue.

The types of activities intended at The Resort directly bear on how the proposed design will function, and in turn whether changes may be needed to the design to minimize unintended effects. Noise is the most obvious example of the design connection.

VOTMA assumes that since the applicant had proposed the creation of a “wedding meadow” it was intending to host weddings at The Resort. VOTMA does not believe that the EIR record contemplated that option as pertained to The Resort. Clearly wedding activity was to occur at the Winery and the initially proposed event pavilion. VOTMA has operated under the premise that The Resort would not be hosting wedding events.

This matter requires direct attention and clarification. VOTMA is opposed to transforming the Spa and Resort into a wedding venue. VOTMA can speculate that the applicant envisions the infinity pool and the adjacent area leading up to the Inn as a perfect substitute for the wedding meadow, and that the indoor meeting rooms and open-air restaurant could also be used in conjunction for wedding events. Add a wedding reception with amplified music to the infinity pool, or the area of the open air restaurant, or the open sliding doors to the outside from the meeting rooms and that is a recipe for weekend misery for the residents of the surrounding area of Kenwood. The current design for the Inn is hardly focused on minimizing sound (or light) seepage, day or night. The design review must reconcile this potential problem. In VOTMA’s view the permitted activities at the Inn must be strictly confined and clearly defined in the context of the original proposal 15 years ago. Weddings and loud outdoor/indoor events generating noise from the Inn across the northern Sonoma Valley should be precluded.

VOTMA recognizes that applicant presumably would like to utilize the meeting rooms to accommodate business and other retreats and seminars, with the participants being either guests of the Inn or possibly some day-only participants. Applicant should specify the maximum number of participants allowed in those or similar situations. VOTMA’s impression is that for purposes of the traffic analysis in the 2004 EIR the assumption for the number of visitors/guests was based largely on the number of Inn guests plus some portion of the seating available in the restaurant. For purposes of design review it is critical to nail down the aggregate estimated likely population at The Resort at its most dense times—resident-guests, non-resident guests, spa and restaurant customers, and associated employees to service those collective guests.

**6.** **Design-Related Grading, Soil and Seismic Issues**—VOTMA has no specific expertise on issues related to soil/rock composition, grading criteria and limits, and seismic issues. VOTMA does appreciate that The Resort is proposed to be developed on a plateau and that the development plan entails 2,500 cu yds of cut and 500 cu yds of fill. Those are big numbers and require some description at the design review stage to understand where that reconfiguring activity will occur and why that much soil/rock moving activity is necessary, and if it truly is. It requires assessment of whether any of that activity will require the removal or elimination of trees. It also requires some assessment of whether and to what extent that activity, if it occurs below and on the south side of the Resort site, will either compromise the forest sheltering effect that was critical to approval of this project in the first instance or otherwise create the risk of an unstable slope or side area.

The current application does not provide any of that information and does not address those issues, at least as perceived by VOTMA. Perhaps VOTMA’s instinct that this is important information warranting a full assessment at this stage is misplaced. But frankly, as indicated in our initial comments, any time a large infinity pool is proposed for a large project one has to wonder where the vision of infinity extends to, and what it looks like from the other distant side.

The combination of a plateau, large cut and smaller fill and an infinity pool at the edge also presents an issue of seismic integrity. Earthquakes are not unknown to the Kenwood area. VOTMA is aware that there have been several 3.0+ magnitude earthquakes in the northeast of Kenwood in the last several years. Certainly the 2014 Napa earthquake was felt in the Sonoma Valley. At the SVCAC meeting the applicant indicated that it had completed a review of the seismic issues associated with the project. VOTMA again commends the applicant for having the foresight to have done so, but notes the irony also that the applicant felt it necessary to do so and yet has not released the study for public review and assessment. That should join the long list of additional information that should be made available before any design review of this project can occur.

**CONCLUSION**

In summary, VOTMA again lodges its objection that this hearing is premature for the following reasons: The applicant has not been forthcoming with a revised project design to be reviewed. Relevant and necessary information and studies needed to fairly and accurately evaluate the proposed design and landscaping plan have not been provided. The proposed design is not consistent with the Conditions of Approval in various respects. The applicant has not developed a scale model or close-in “bird’s eye” visual equivalent that would allow realistic visual perspective of the design proposal in the context of the surrounding Sonoma Valley. Staff has not publicly released a report of its assessment of the design issues it has identified. And, finally, the entire design review effort is premature until PRMD has completed the Environmental Checklist process for CEQA Guidelines Sections 15162-164 Findings to determine the need for a subsequent EIR.

VOTMA appreciates the opportunity to submit these comments.

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Board Member

Valley of the Moon Alliance

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