



June 23, 2017

filed via e-mail

Kimberly Nguyen
Permit and Resource Management Department
Sonoma County

Re: UPE17-0012; Jack London Tap Room/Cornerstone

Dear Ms Nguyen,

The Valley of the Moon Alliance (VOTMA) understands that as a result of its May 24th objection in the referenced proceeding (Jack London Tap Room (JLTR), or Taproom), the PRMD staff is currently in the process of preparing its report and draft Conditions of Approval for consideration at a forthcoming hearing, yet to be scheduled. We assume that report will, among other things, outline in detail the basis for PRMD's prior recommendation that the Board of Zoning Adjustments (BZA) approve the JLTR application and find that the application to establish the Taproom is categorically exempt from CEQA analysis based on a Class 3 exemption (Section 15303, CEQA Guidelines).

VOTMA believes that at this time proceeding with this application using a Class 3 exemption, or any other CEQA categorical exemption for that matter, would be inappropriate and legally improper.

Since VOTMA did not file comments initially in this application, we are filing some preliminary comments now, before staff and PRMD management have expended the energy and time needed to prepare a formal report for use at the upcoming hearing. Our comments outline why (in part) VOTMA believes this Taproom proposal does not qualify for a CEQA categorical exemption. These comments are not intended as a full explication of VOTMA's position in this proceeding, but are merely intended to alert staff that it would be prudent for it to more closely consider its apparent intended proposed action to exempt the Taproom application from *all* CEQA substantive analysis.

TAPROOM PROPOSAL

The applicant's March 23, 2017 "Project Proposal Statement" provides a low-key outline of the nature and scope of the proposed new use. This letter is not the place to review all the ambiguities in the project description. What is relevant

is that the applicant represents that: "It is estimated that the proposed use will have similar customer flow as the prior tenant and will have no additional impact on the [existing septic and water] systems." The applicant has provided no information or technical studies (at least as reflected in PRMD's file open to public viewing) to support these assertions, either in the form of past commercial traffic or anticipated usage traffic, as an example. At a minimum and as a starting point, the applicant should be asked to submit the beer-room, food-serving equivalent to the "Winery Trip Generation" form that PRMD has required in past similar applications.

In contrast to the bland Project Proposal Statement submitted in the application, applicant's apparent actual business model for this new beer-room, food-serving venture is far from low-key. VOTMA has attached a recent news article/promotion for the Taproom and a link to a Kickstarter campaign that applicant has been running for this new venture. As is evident from even a casual perusal of those documents, the Taproom has bigger business plans for its large outdoor spaces and seeks much longer operating hours (10 am to midnight, 7 days a week) than any other venture at Cornerstone is presently authorized to operate. PRMD staff needs to undertake serious due diligence on the gap between the Project Proposal Statement and the apparent intended broad commercial plans of the applicant, as reflected in its own public marketing statements.

CEQA CATEGORICAL EXEMPTIONS

A. Class 3 Exemption

PRMD's Notice of Waiver of Hearing indicated that PRMD was proposing to determine that "the project is categorically exempt from the provisions of the California Environmental Quality Act pursuant to the Provisions of Title 14 of the California Administrative Code, Section 15303 (Existing Facilities)." Section 15303 provides for an exemption (Class 3) from any environmental review for projects involving "New Construction or Conversion of Small Structures." VOTMA suspects that PRMD's Notice did not intend to reference section 15303 (since the "Existing Facilities" exemption is section 15301). VOTMA does not believe the Taproom would qualify under Class 3, in view of the intended scope, area, use and modifications needed to operate the facility in the manner proposed by applicant.

B. Class 1 Exemption

PRMD's Notice of Waiver more likely was intended to indicate that a CEQA Class 1 exemption was proposed to be granted for the project, as reflected by the parenthetical reference to "Existing Facilities". Class 1 exemptions appear to have been used in the past for Cornerstone expansions where an existing retail use in a building was proposed to be supplanted by a tasting room or similar activities. Applicant's Project Proposal Statement similarly appears to be framed as a contemplated transition of an existing use.

Class 1 categorical exemptions from CEQA apply to the "operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination." Section 15301 further provides that "The key consideration [in determining whether a Class 1 exemption is available] is whether the project involves negligible or no expansion of an existing use." (emphasis added)

VOTMA does not see how the proposed alteration and expansion of the existing use of the identified location of the Taproom could possibly align with the "negligible" increased use limitation for Class 1 exemptions. That area currently operates as a "private office." Public taproom operations, private beer and food parties for 100 guests, music and games, and a 7-day/week 14 hours/day operations schedule for this proposed beer drinking facility and restaurant hardly constitute negligible or no expansion of the existing use of that specific space. Indeed, no other existing facility at Cornerstone has an operating profile and duration of use similar to that proposed by the Taproom. The Taproom project simply does not appear on its face to qualify for a Class 1 categorical exemption.

EXCEPTIONS TO CATEGORICAL EXEMPTIONS

Even if PRMD could somehow find a basis supported by adequate facts to classify the Taproom as eligible for a categorical exemption, PRMD would still have to address the applicability of any "exceptions" that override application of categorical exemptions from CEQA. Section 15300.2 of the CEQA Guidelines outlines those exceptions. Section 15300.2(b) of those exceptions reads as follows:

"(b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant."

The Cornerstone facility started out as a garden center with one cafe that served and sold wine as well as food. UPE 99-0147 (October 26, 2000) is the "mother ship" that frames permissible use at the Cornerstone site. Since its approval, Cornerstone has evolved from a garden facility with a one-site cafe/wine store to a site that now has four wine tasting facilities, one distilled spirits tasting facility, and the original café. Cornerstone has various other retail activities lodged in the various buildings that form its compound.

The Taproom proposal is significantly additive to those similar existing uses and cumulative with all the broader retail/demonstration/event uses at Cornerstone. Due to this sequence of successive similar projects and the cumulative impacts of those and Cornerstone's more general evolution to an event center, a categorical exemption is not available for the Taproom proposal,

per Section 15300.2.

UPE 99-0147 projected that the entire Cornerstone facility would employ 15 people. VOTMA is not aware of the current number of employees at Cornerstone, and the applicant has not provided any information on that topic. Similarly, the Taproom has provided no information on the evolution of the current and projected water and sewer use compared to that originally anticipated, or the current customer/vehicle trip generation compared to what was anticipated in UPE99-0147.

Applicant's representation that the Taproom would have similar customer flow to a prior tenant is both vague and incomplete, and hardly consistent with the promotional Kickstarter write-up that references outdoor music venues, a food truck, beer garden and private parties, food pairing in the "restaurant" and co-use of the expansive Sunset grounds in the back and the Cornerstone Pavilion in the front.

The publicly stated business plan for the proposed Taproom suggests to VOTMA that the combined effects of the large outdoor and smaller indoor spaces to be used, the long hours of operation, the addition of food being served and available from the food truck and the pre-packaged & catered on-site venues, and the types of special parties and ongoing beer drinking and social activities already announced, will almost certainly have significant impacts, individually and cumulatively (plus additional retail generating effects at other site shops), at Cornerstone. It is reasonable to anticipate that the Taproom operation (together with the existing Cornerstone cumulative activity profile and that reflective of the recent Sunset expansion) will implicate many of the significant environmental impacts that CEQA is designed to be required to be analyzed (traffic, parking, traffic safety re adjacent highway, water and sewage use/disposal, noise, light, etc) before a project may be approved. The recent motorcycle-automobile fatality at the Gloria Ferrer-Highway 121 exit a stone's throw from the proposed Taproom site attests to the seriousness of the potential impacts of a taproom at that location operating to midnight seven days a week.

It seems incontrovertible that the Taproom's contemplated new beer tasting/food operations will constitute considerably more than negligible or no expansion of the existing use, whether in comparison to the present office operation, the existing wine tasting/spirits tasting/cafe similar activities, or the broader operating impacts of the entire Cornerstone facility. PRMD has the obligation to thoroughly assess the expected probable impacts of the project on the Cornerstone facility and surrounding area, and to establish that there are "no or negligible" impacts from the proposed project relative to the existing use of the space, *and* there are no significant cumulative impacts, as a precondition to determining that a categorical exemption from CEQA is legally justifiable.

CONCLUSION

VOTMA respectfully suggests that it would be inappropriate from both a proper planning and permitting perspective and a legal perspective for PRMD to acquiesce in an effort to *entirely* avoid CEQA substantive review for this proposed Taproom venture. Standing alone, the project would have significant impacts mandating a CEQA initial study. Considered in the context of its location at the Cornerstone event facility that has recently been itself generating significantly larger impacts than analyzed in UPE 99-0147 the conclusion that this project does not qualify for a categorical exemption can hardly be said to be contestable.

PRMD should avoid a wasted effort of entertaining the prospect that this project qualifies for a categorical exemption from CEQA. PRMD should instead embrace the obligation to comply with CEQA, as well as adhering to good planning processes, by undertaking a thorough assessment of the traffic, safety, resource and other impacts that will be generated by this project. The proposed Taproom is anything but just another quiet wine tasting space and a simple reuse of an existing facility. Nor is it a simple conversion or modification of a small structure. That much is readily evident from the applicant's own statements for how it intends to utilize this new venue.

PRMD should start by requiring the applicant to provide it with a more complete operational business plan outlining the nature, number, and size of proposed Taproom events. That should coincide with initiation of technical studies (e.g., water and traffic studies) and other information necessary to allow staff to conduct the functional equivalent of an initial study. If staff concludes, based on a more complete project proposal and an assessment of the other impact inputs referenced, that the project would have no or negligible impacts and no significant cumulative impacts due to the successive expansion and evolution of Cornerstone uses from those evaluated in UPE99-0147, the PRMD staff report must document the specific basis for those conclusions in support of any recommendation that a categorical exemption is allowable for this project.

As it stands now, approval of a categorical exemption for the Taproom project without that supporting analysis would be legally untenable. VOTMA thus presently opposes any categorical exemption for this project.

Thank you for considering these comments from VOTMA.

Regards,

Roger Peters

Roger Peters
VOTMA
Board Member