

February 10, 2015

Blake Hillegas
Planner III
Permit and Resources Management Department
County of Sonoma
Via email to Blake.Hillegas@sonoma-county.org

Re: PLP05-0009-Application for Use Permit Modification-VJB

Dear Mr. Hillegas,

The Valley of the Moon Alliance (VOTMA) submits these comments in response to PRMD's January 26, 2015 referral to Interested Parties on the referenced file. These comments supplement VOTMA's earlier comments dated August 24, 2014, in response to an earlier referral, dated August 5, 2014. For the reasons stated in both responses, VOTMA does not presently support the applicant's requested modification to the existing use permit.

VOTMA is an organization whose mission is to protect and preserve our Sonoma Valley. Many VOTMA members undoubtedly appreciate the activities and vitality that the applicant, Henry Belmonte, dba as VJB Vineyards and Cellars (VJB), has brought to Kenwood and the surrounding areas as a result of the tasting room and marketplace operations at 60 Shaw Avenue over the last 2+ years. At the same time, VOTMA is aware that there have also been negative parking and traffic effects as well as associated safety concerns that are troubling and have not been resolved. VJB's apparent proposal to now construct a commercial kitchen in the marketplace and further expand food and restaurant service, including starting outdoor dining, is untenable, given that its existing operations already have negative impacts that have not yet been adequately addressed. Accordingly, this latest effort in use permit creep should be denied absent more information from the applicant regarding solutions to the existing problems, and a clear showing that the new proposed uses would not cause new and/or additional potential adverse impacts.

VJB's Proposed Use Permit Modifications

VOTMA strong declarative statement stems in part from the wholesale lack of information VJB has provided to this point about the scope and impact of its proposed permit modifications.

When the initial use permit modification was filed on July 11, 2014 (attached to the August 5, 2014 referral), the apparent purpose was to allow the ability to offer pizzas made on an outdoor wood burning oven, to be offered in conjunction with marketplace and bbq offerings (VJB letter to PRMD, June 25, 2014) and to extend market place operations to 5 pm every day and until 7 pm on Friday. According to the VJB letter, the Department of Public Health also apparently was requiring that the outdoor oven area be enclosed when “prepping of food” for pizzas was taking place. VJB was proposing to enclose the outdoor oven area in some fashion as a solution.

PRMD’s subsequent August 5th referral described the project as “ Request to modify previously approved Use Permit to change hours of operation, for the marketplace to allow it to be open from 10:00 a.m. to 5:00 p.m. Saturday through Thursday and 10:00 a.m. to 7:00 p.m. on Fridays *and to expand food service to allow restaurant during business hours.*” (Italics added). It is not clear whether PRMD’s reference to expanded food service to allow restaurant activity was referring to the pizza operation (then on-going) or some other expanded food service.

The most recent PRMD referral (January 26) now describes the project as “Request to modify previously approved Use Permit to allow commercial kitchen in marketplace to allow expanded food and restaurant service, including outdoor dining.” The referral does not attach any further description by the applicant as to the specific scope or purposes of the modified uses.

As this point VOTMA is unsure whether VJB is simply asking to extend its hours of operation, or whether it is also asking that the use permit be modified to allow a) construction of a commercial kitchen (whether in the outdoor oven area or in the marketplace building), b) authorization to serve pizza (which it is already doing), c) authorization to open a “restaurant” in the market place area (first and/or second floor) with a wider menu associated with a commercial kitchen, d) authorization to operate a restaurant as described, and include an outdoor dining option or e) all of the above. Each of these variations raises different levels of impacts, none of which is either described in detail or assessed. Until applicant provides a specific list of the use permit conditions it is seeking to modify it is not possible to reasonably assess or process this request.

History of VJB Use Permit

To put the uncertainty associated with the August 5th and January 26th referrals in context, it might be helpful to briefly review VOTMA’s understanding of the history of the VJB project.

In 2005 VJB filed for a Use Permit and Design Review for a 3,342 sq. ft. market place and tasting room building, a 1,800 sq. ft. wine case storage building and to approve the existing residence as a residence secondary to the approved commercial use.

The Board of Zoning Adjustments issued a Use Permit for the project on March 8, 2007. The Board of Supervisors (BOS) subsequently rejected an appeal by an adjacent neighbor to the project and adopted a Mitigated Negative Declaration as to environmental impacts. The Final Conditions of Approval were set out in Exhibit A, dated October 9, 2007, of the BOS approval document. The conditions address a number of issues, including traffic and parking and the uses and events allowed. Condition 26 references the need for VJB to obtain all Food Industry Permits required for wine tasting activities and special events, and notes that “No other food service was requested or authorized by this permit.” Condition 59 addresses how special events are to be conducted and specifically states that “A commercial kitchen is not permitted.” Traffic, noise and other impacts were assessed based on the project as described—a tasting room, market place and wine case storage building. Conditions 80 and 86 address proposed modification, alteration, and/or expansion of the uses authorized.

Impacts Associated with Modified Uses

VOTMA has not tracked the evolution of actual project use since the October 2007 approval or what permissions have been obtained for such uses. The one thing that seems reasonably clear to VOTMA is that VJB’s project was never authorized to operate as a restaurant with a commercial kitchen. VOTMA seeks clarification as to whether that is now applicant’s proposed modified additional use. This issue needs to be addressed head-on, rather than by implication in vague descriptions of intended use.

The potential impacts that flow from that answer are varied. How would use involving a commercial kitchen and a restaurant change the previous environmental noise assessment? How would traffic and trip generation change, and what would be the parking implications? The left turn onto Shaw Avenue from west bound Highway 12 still has not been constructed; how would this additional use impact that traffic/accident risk? Apparently the project now uses the Maple Avenue Emergency Vehicle Access as an exit driveway, channeling exiting cars to the Highway 12/Maple avenue intersection; no northbound left turn lane exists at that point. The conflicts over parking around the Kenwood Park and the congestion and along Shaw Avenue would need to be assessed. Are there any other safety implications (e.g., associated with youth using the park in the spring/summer/fall, or the need for adequate space for fire/emergency vehicle passage) from any such expanded use? Is there any relationship between the proposed modifications and VJB’s recent purchase of the Wellington Winery? How would authorization to establish a commercial kitchen and operate VJB’s facility as a restaurant affect the scope and nature of the special events authorized by the present Use Permit?

VJB’s Assessment of Impacts

VJB has done little to address any of those issues. It has produced a traffic impact study from W-Trans, dated April 3, 2014 (pages 2-4 are dated June 18, 2014), that

estimates the impact in the change in hours proposed (and appears to also conclude that a northbound left turn lane on to highway 12 at Maple is warranted). That study did not address restaurant or commercial kitchen use implications as far as VOTMA can tell.

Even as to that more limited study, however, VOTMA suggests it may be useful to consider whether an alternate approach to that used by W-Trans may be warranted. Specifically, W-Trans indicated in the April 3rd study that it used the ITE rate for a “drinking place” to estimate project traffic associated with the tasting room(s), and it used the ITE rate for a “Quality Restaurant” to estimate trip generation for the marketplace/deli. While the former may be appropriate, VOTMA wonders whether it might be more appropriate to instead use the ITE category “high turnover (sit-down) restaurant” (ITE #932) as the estimated trip generator for the marketplace/deli. It is VOTMA’s impression that the latter rate appears to be associated with cafes, whereas the Quality Restaurant ITE is more directly associated with fine dining. The deli food may be good, but it is not fine dining.

Not surprisingly, trip generation estimates for a café are noticeably higher (and have a large range of trip generation potentials) than would be the case for a fine dining restaurant. VOTMA suggests that PRMD should evaluate whether the current marketplace/deli is more akin to a café than a “Quality Restaurant.” If so, it would be informative to recalculate the potential trip estimates on that basis for comparison purposes. VOTMA notes that VJB’s marketplace/deli has already been characterized in the press as a café.

This ambiguity as to how to best estimate project traffic trip generation also points to the more relevant need for an accurate ongoing actual count of the traffic/trips being generated by the current operation before any action is taken on expanding operating hours or authorizing additional food service. Trip estimation is the only option where a project is being planned; the VJB operation has been ongoing for several years.

The approach used to determine the most likely traffic/trip impacts would be particularly important if VJB’s proposed use modification is both to extend the hours and add a commercial kitchen to service a new restaurant with inside and outside dining. In that situation, shouldn’t there be an assessment of the cumulative trip generation effect of (1) a drinking place (current multiple tasting rooms), (2) a café (current marketplace/deli), and (3) an indoor and outdoor restaurant served by a commercial kitchen? In framing that question VOTMA is unclear whether the current “exterior ‘piazza’ takeout food service,” (as reference by W-Trans in its January 13, 2015 letter) would count in category 2 or 3. The relevant point again though is the need for more clarity on the scope of the proposed use modification and the traffic and parking impacts, among others, likely to result.

The January 26th PRMD referral attached a supplemental W-Trans letter dated January 13, 2015. VOTMA has some doubt about how much value can be derived

from the trip count and other information reported in that letter. W-Trans reported that it had performed a 2-hour (4-6 p.m.) count on Wednesday December 9, 2014 to address “the adequacy of the trip generation estimates for the project compared to the actual demand based on the uses constructed, as well as the proposed changes to the Use Permit for VJB Marketplace.” W-Trans does not indicate in this latest letter what it understands to be “the proposed changes to the Use Permit for VJB’s Marketplace.”

W-Trans’ report indicates that on that particular December Wednesday during that 2-hour period the project generated 5 trips. Using that information, W-Trans states that even if one scaled up the count to reflect peak, summer month volumes, “the project would still be expected to generate fewer trips than were assumed for purposes of the [April 3, 2014] traffic study....” This leads W-Trans to the conclusion that “the additional food service therefore appears not to have resulted in any increase in trip generation potential for the project compared to what was assumed [i.e., estimated] for the most recent [April 3, 2014] analysis. Setting aside the intriguing question whether this comment suggests that W-Trans believes that the proposed use modification is in actuality simply a request to formally authorize continuation of the food service VJB has already initiated, VOTMA wonders whether the W-Trans conclusions are adequately supported.

VOTMA is not a traffic engineer. Even so, most Kenwood residents will remember the headlines on that December 9th day and on the day preceding in the Press Democrat warning everyone in the area to prepare for a substantial storm expected to arrive sometime late Wednesday or very early the following day. The storm did arrive later that Wednesday night and by 6 p.m. the barometric pressure was dropping, heralding the arrival of the storm. Likely VJB was itself then taking precautions for the fierce storm that arrived shortly thereafter.

Given that context, from VOTMA’s perspective it is difficult to extrapolate the December 9 count as confirming much of anything about trip generation estimates, especially as related to the spring and summer months. In the time frame that count occurred Valley residents were prudently taking shelter and visitors were not likely to be journeying into Kenwood to visit VJB’s Marketplace or tasting rooms.

Similarly, W-Tran’s comment in the January 13 letter that the parking study done on Saturday, December 13 was done during the peak of the holiday shopping and was “reflective of reasonably busy conditions” perhaps overlooks the possibility that people were at that point still drying out and cleaning up from one of the worst 2 day rains of the year. Again, there is reasonable doubt whether the 5 hour parking study count conducted on that particular day last December can be meaningfully extrapolated to cover parking conditions visitors to VJB’s facility might face in the spring and summer months.

Concluding Thoughts

VOTMA regrets that these comments have become so lengthy. Perhaps it has misinterpreted or not understood the applicant's proposal. VOTMA reviewed what was described as the entire project file box in PRMD's offices last Thursday. There was no information about this proposed modification in the box for PLP05-0009. Likely that reflected that work was currently underway utilizing the most recent portions of the file; PRMD was quick to provide copies of both referrals electronically after VOTMA inquired via email. VOTMA does not currently know if any other documents exist addressing VJB's proposed use modification. Absent such clarifying information, and given the current ambiguity as to the scope of the use modification, too many questions relating to potential impacts are outstanding for any action approving this application.

VOTMA believes there should be a robust process for appropriate reconciliation between permitted uses, actual activities and proposed additional uses for winery, wine-tasting rooms, and other similar event-generating commercial activities that have mushroomed over the last decade in Sonoma Valley. Individually each proposed use modification may seem benign on paper or at least only marginally problematic. In fact, however, if each requested modified use pushes the limit to the edge for use of a site, collectively these modifications can have significant adverse impacts that will not be fully identified, integrated, monitored and assessed on a cumulative basis.

More than 7 years have passed since VJB was authorized to construct and operate its facility, subject to specific conditions, to be used for wine tasting room(s), a marketplace and a wine case storage building. With that specific use in mind VJB invested resources and proceeded to construct, open and operate the existing facility with its expectations framed in terms of the specific uses then permitted. Certainly VJB has the right to request that a use permit be modified. But it should have every expectation that any consideration of such a request by PRMD should reasonably be made with a view also to the resulting possible impacts due to that changed use, together with now-current traffic, parking, noise etc. impacts from subsequent development and growth in the immediate area. VOTMA is simply asking PRMD to apply that standard here.

VOTMA is not opposed to reasonable commercial activity. VOTMA does have concerns where projects that are permitted with distinct limitations and conditions, and that have been constructed and operated for a few years, seek to expand those activities potentially far beyond those uses previously considered, limited and approved by Sonoma County. That sort of expanded use may be a good business model for an applicant; but it is not necessarily a good community outcome for the residents of this Valley.

At this point, VOTMA remains opposed to this proposed use modification.

Thank you for the opportunity to provide comments.

Very truly yours,

Kathy Pons, President
Valley of the Moon Alliance

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