



DICKENSON, PEATMAN & FOGARTY  
A Professional Law Corporation

KEVIN W. TEAGUE  
KTeague@dpf-law.com

February 17, 2010

**RECEIVED**

**FEB 17 2010**

NAPA CO. CONSERVATION  
DEVELOPMENT & PLANNING DEPT.

809 Coombs Street  
Napa, CA 94559-2977  
Tel: 707 252 7122  
Fax: 707 255 6876

[www.dpf-law.com](http://www.dpf-law.com)

Charles H. Dickenson  
Paul G. Carey  
James W. Terry  
Thomas F. Carey  
Kevin W. Teague  
Michael J. Holman  
David A. Diamond  
J. Scott Gerien  
Brandon R. Blevans  
Kevin D. DeBorde  
David Balter  
W. Scott Thomas  
J. Robert Anglin, Jr.  
Gregory J. Walsh  
Susan M. Teel  
Megan Ferrigan Healy  
Julia M. Walk  
John N. Heffner  
Daniel Peralta  
Susan L. Schwegman  
Aleson R. Kent

Napa County Airport Land Use Commission  
c/o John McDowell  
Deputy Planning Director  
1195 Third Street, Suite 210  
Napa, CA 94559

RE: St. Regis Napa Valley, 08-0111 GP, RZ, MUP/ALUC Review

Dear Mr. McDowell:

We represent SR Napa, LLC, the applicant for the St. Regis Napa Valley project ("Project") in the City of Napa. The Airport Land Use Commission (ALUC) will consider the proposed General Plan Amendment, Master Plan District zoning designation and Master Use Permit ("MUP") related to the Project at the March 3, 2010 meeting. These regulations and related conditions dictate Airport Land Use Plan ("Airport Plan") compatibility, and will be used to develop final site plan and design for City review. We write to address the concerns raised by ALUC staff regarding Airport Plan compatibility. We believe these concerns have been addressed in the proposed regulations before the ALUC. The purpose of this letter is to present you with our understanding of the Project's consistency with the Airport Plan.

1. Vineyard Units in Zone D are Resort Use:

Staff raised a concern whether the five Vineyard Units located within Zone D proposed for fractional ownership are a residential use, rather than a resort use. Under the proposed zoning, no residential uses are allowed in Zone D.<sup>1</sup> The proposed zoning requires the fractional units, by definition, to be a transient use, which limits occupancy to 30 or fewer consecutive days by an owner or guest. Therefore, resort units located in Zone D, are a resort use and consistent with the Airport Plan.

2. Location of Vineyard Units in Zone E:

Staff raised concerns about the location of the type "A" Vineyard Units (proposed for whole ownership) within Zone E. Staff indicated that they may consider the Project inconsistent with the Airport Plan because they questioned whether these units comply with Note 7 on Page 3-15 of the Airport Plan. The site plan and design has not been completed. The proposed regulations governing the Project require the City to consider

<sup>1</sup> Proposed Napa Municipal Code ("NMC") § 17.30.020.

Of Counsel  
Francis J. Collin, Jr.  
C. Richard Lemon  
Richard P. Mendelson  
David W. Meyers  
Cathy A. Roche

Retired  
Howard G. Dickenson  
Joseph G. Peatman  
Walter J. Fogarty, Jr.  
(1939 - 2007)

and approve a final site plan and complete design review. See Proposed Napa Municipal Code (“NMC”) § 17.30.070(A) and (B), and § 17.30.080(C). When the City reviews the final site plan, it must consider the proximity to flight patterns, frequency of overflight, terrain conditions, and type of aircraft in determining the acceptable location of residential uses, consistent with the Airport Plan, page 3-15, Note 7.

3. Resort Water Feature in Zone E:

Staff raised concerns about the proposed water feature (pond) under Table 3-2 of the Airport Plan, in which ponds are listed as a use “not normally acceptable” in Zone E. To address birds at the pond, the St. Regis will have a wildlife management plan, which will reduce the presence of birds. Proposed NMC § 17.30.080(C) requires this wildlife management plan for the water feature to be developed and submitted with the Project’s final site plan. Finally, the water feature is more than 10,000 feet from the nearest runway at the Napa County Airport, consistent with FAA guidelines.

4. Overflight/Noise:

ALUC staff raised concerns about future complaints related to overflight noise. Noise from single-event aircraft is outside the 55 CNEL contour, but may have the potential to cause “annoyance” due to what the ALUC calls the “mosquito effect.” The California Airport Land Use Planning Handbook addresses this potential “annoyance” and states that it is important to establish “buyer awareness measures.” The existing Avigation Easement on the property provides such notification and will continue to run with the land. Also, proposed NMC § 17.30.060(J) requires that notification and acknowledgement of the potential impacts from the Airport be included in the CC&Rs for the Project. Further, at the January 21, 2010 Planning Commission hearing, the applicant agreed to amend the Avigation Easement on the resort parcel to include any updates to reflect the resort use, including a single point of contact at the resort.

5. Events:

ALUC staff was concerned that outdoor events that could occur on site might be “noise-sensitive outdoor uses.” No noise sensitive outdoor use is proposed or allowed as a use in the proposed zoning. The issue is whether typical resort events render the use incompatible with the Airport Plan. Note that all events would occur in unrestricted Zone E; also, note the EIR demonstrated that noise from the outdoor uses will exceed the ambient noise levels and therefore are not “noise sensitive.” The question here is how events might be impacted by overflight and the potential “mosquito effect.” The same “buyer beware” notice provisions of the Avigation Easement and CC&Rs for purchasers of Vineyard Units also will apply to the resort and resort operations (including events).

We hope this information is useful in understanding the proposed regulations for the St. Regis Napa Valley.

February 17, 2010  
Page 3

Sincerely,

DICKENSON, PEATMAN & FOGARTY



Kevin W. Teague

KWT:tml

cc:

Michael Allen  
Peter Spoerl  
Jim Hare  
Tambri Hayden  
Dana Smith  
Beth Painter  
Jeff Selby  
Mark Couchman