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Planning Commission Mtg.

July 15, 2014

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Agenda Item # 9A

VIA E-MAIL

Napa County Planning Commission
c/o Ms. Wyntress Balcher
County Administration Building
1195 Third St., Ste. 201
Napa, CA 94559

Re: LMR Rutherford Estate Winery Conditional Use Permit and Variance Applications
Application Nos. P13-00167-UP, P13-00185-VAR
Hearing Date: July 16, 2014

Dear Planning Commission:

I write today on behalf of Grgich Hills Estate who opposes LMR Rutherford Estate's pending conditional use permit and variance applications. For almost 40 years, Grgich Hills has operated its award-winning vineyard and winery in Rutherford. LMR's proposed development is directly across Highway 29 from Grgich Hills and just a few hundred feet from Grgich Hills' front door. If allowed, that development would create unjustified increases in traffic and traffic hazards on an already over-burdened road and would be inconsistent with the County's land-use laws. As a result, Grgich Hills urges the Commission to deny LMR's pending applications or, alternatively, to require LMR to modify its proposed development in ways designed to ameliorate its more harmful impacts.

I. LMR Proposes a New Entrance from Highway 29 Which Is Unnecessary and Will Create Increased Traffic Hazards

First and foremost, Grgich Hills opposes LMR's application to the extent it proposes a new entrance to the LMR property from Highway 29, directly across from the entrance to Grgich Hills. That proposal will have significant, negative impacts on traffic and traffic safety on Highway 29—impacts that could be significantly reduced by LMR using its *existing entrance* on Mee Lane instead. LMR has not justified its request for a new entrance on Highway 29, and the Commission should deny its application. (See Napa County Code, § 18.124.070(C).)

As the Planning Commission well knows, Highway 29 in Rutherford is and has been for many years overburdened with traffic far in excess of its capacity, especially on weekends and during harvest season. Adding a new winery entrance in the location proposed by LMR will exacerbate that problem. It will increase the number of cars turning on and off from Highway 29. It will do so in a location with relatively dense foliage and correspondingly reduced lines of sight. And, constructed directly across from Grgich Hills' own driveway, it will create conflicts between vehicles leaving LMR and Grgich Hills, especially around closing time and/or when both facilities

are hosting events. These impacts are certain to increase traffic delays and increase the attendant risk of accidents and injuries.

Further, there is no need for an entrance on Highway 29. LMR already has a vehicular entrance on Mee Lane, with sufficient room to accommodate the vehicular traffic—both employees and visitors—anticipated by LMR's application. As a result, no reason appears to justify adding the traffic impacts from a new entrance on Highway 29, and LMR has offered none.

Even the traffic study LMR submitted in support of its application fails to justify—or even discuss—the choice to establish a new entrance on Highway 29, rather than utilizing the existing entrance. That study describes various steps LMR plans to take to *reduce* the impacts of its new entrance, but completely overlooks that another, presumably cheaper option exists that would create even fewer traffic impacts. LMR can and should simply maintain—and expand, if necessary—its existing entrance.

These concerns are consistent with those expressed by the State's Department of Transportation in its June 4, 2014 letter to the Commission. As Caltrans explained, the proposed entrance would not be served by an adequate turning lane for the volume and speed of southbound traffic in that location.¹ This must be contrasted with Mee Lane, which already has left-turn lanes serving both north- and southbound traffic. In addition, Caltrans correctly criticizes LMR's traffic study which (1) underestimates the volume of trucks on Highway 29 in Rutherford and (2) bases its analysis on the *wrong speed limit*—using a 50 mph limit, rather than the 55 mph limit actually in place in that location.

In light of these deficiencies, Grgich Hills requests that the Planning Commission deny LMR's application as submitted. Alternatively, Grgich Hills requests that the Commission establish as a condition of development that LMR remove the new entrance on Highway 29 from its proposal, and instead plan to utilize its existing Mee Lane entrance. At a minimum, Grgich Hills requests that the Planning Commission continue its consideration of this application and require a further traffic study that uses accurate figures and evaluates opportunities to utilize an entrance on Mee Lane in comparison with the impacts anticipated from LMR's proposal to add an entrance on Highway 29.

II. LMR Does Not Require a Variance to Make Economic Use of Its Property

In addition to its application for a conditional use permit, LMR also seeks a variance to allow it to build new winery facilities—including new buildings, tasting room / guest experience, and a parking lot—less than 600 feet from Highway 29. LMR has not demonstrated a need for the variance, and its application should be denied.

Before it may grant a variance, the Commission must find, based on evidence in the administrative record, that the variance is "*necessary* for the preservation and enjoyment of substantial property rights." (See Napa County Code, § 18.128.060(A)(3), emphasis added.) In its application, LMR explains that the proposed variance will reduce the cost of developing its proposed new facilities. Without that cost reduction, LMR claims it will be unable to develop the

¹ Northbound traffic is served by a left-turn lane that was constructed by Grgich Hills, at its own expense, to allow safe entry on its property.

proposed winery on site—a use which is otherwise conditionally permissible. But LMR's explanation does not establish that the variance is necessary.

In reality, LMR is already able to enjoy the economic use of its property. It grows grapes there, apparently profitably, and has for many years without the need for a variance. LMR's application would allow it to develop a new, potentially *more profitable* use. But that is not a sufficient justification for a variance. It does not demonstrate that a variance is *necessary* to preserve LMR's property rights.

Moreover, LMR has not sufficiently demonstrated the economic impossibility of building its new facilities more than 600 feet from Highway 29. To the contrary, as its neighbor, Alpha Omega Winery, noted in its own letter to the Commission, it is possible, if more expensive, to build in the flood plain. And, it appears that LMR has already staked out the footprint and height of the winery it would build if its variance were denied, suggesting that LMR does, in fact, believe such a winery is viable.

As LMR's application acknowledges, use of this property for a winery is permissible; it is not allowed as of right. To the extent LMR claims that it cannot build its new facilities within the applicable zoning regulations, the Commission must conclude that this site simply is not appropriate for the proposed development and should be maintained as a vineyard. On the other hand, if it is possible to build away from Highway 29, LMR should be required to do so. In either case, the variance should be denied and, with it, the dependent conditional use permit as currently proposed.

III LMR's Development Should Be Reasonably Limited If Permitted


Finally, to the extent that the Commission decides to grant LMR's applications, Grgich Hills requests two further conditions to its construction in order to mitigate some of the impacts of the proposed development.

First, Grgich Hills notes from the Commission's "Background" document that the structures LMR proposes are a little over 40 feet high. That is inconsistent with the applicable zoning, which limits the height of structures to 35 feet. (See Napa County Code, § 18.104.010.) A 35-foot structure would have less impact on Grgich Hills' existing views, as well as those of LMR's other neighbors. LMR has not requested a variance to permit the increased height on its buildings, and the Commission should require that LMR construct within applicable limits.

Second, LMR requests permission to host up to 6 social events per year, scheduled any time between 10 a.m. and 11 p.m. The 11 p.m. closing time is inconsistent with surrounding uses, which include residential properties, and inconsistent with the commercial nature of the proposed operation. (See Napa County Code, § 8.16.070.) Grgich Hills requests that the Commission not allow LMR to host events past 10 p.m.

Grgich Hills appreciates the opportunity to provide its perspective on LMR's proposed development and thanks the Commission for its time and consideration.

Respectfully yours,



Adam Hofmann

cc: Miljenko Grgich
Violet Grgich