

**DANIEL EDELSTEIN, ENVIRONMENTAL SCIENTIST
& CERTIFIED WILDLIFE BIOLOGIST ASC.**

December 13, 2017

County of Mendocino
Department of Planning and Building Services
860 North Bush Street
Ukiah, California 95482

Subject: Appeal letter from neighbors adjacent to proposed campground
(APN #050-470-45) in relation to Mendocino County Use Permit Application — Collective
Retreats Major Use Permit for Transient Campgrounds. (Case U_2017-0009)

To whom it may concern:

Introduction:

As an Environmental Scientist specializing in California Environmental Quality Act projects since 2001 and for the last 30 years a Certified Wildlife Biologist Associate working on more than 25 projects in Sonoma and Mendocino County, I have been invited to submit the following appeal letter by neighbors — Kate and Roger Schafer, 33350 Pine Mountain Road, Cloverdale, CA (Adjacent Parcel) — adjacent to the proposed campground (APN #050-470-45) submitted by Collective Hotels & Retreats, Inc. (Applicant).

My appeal points that follow assess information in your department's "Planning Commission Staff Report — Major Use Permit" (Report) for the proposed project (Project). In so doing, I believe my assessment of your Report's judgments in relation to several sections in the Initial Study should be further evaluated by your staff before your department recommends granting a major use permit to the Applicant.

Note that my background as a regulatory specialist within the environmental consulting profession reminds you of a basic fact that you already know: environmental impact analysis must consider "significance criteria" for each of the areas present on the Initial Study checklist¹.

As a result, consider the comments I provide below in relation to this standard evaluation element that applies California Environmental Quality Act (CEQA) assessment principles, given the current Project must adhere to them.

¹ *Understanding Environmental Impact Assessment*, Grassetti Environmental Consulting, 2003 (7008 Bristol Drive, Berkeley, CA 9470)



In turn, as you'll read, based on the comments I provide, I believe the Project is not yet worthy of a Mitigated Negative Declaration, given the Project's current design will likely result in significant impacts in relation to sections in your Report corresponding to Initial Study sections such as Aesthetics, Biological Resources, Hydrology & Water Quality, Noise, Public Services, and Traffic — with no available alternatives currently presented by the Applicant to mitigate these areas to a less than significant level.

Consequently, it is my professional opinion that the Project is not yet worthy of a Mitigated Negative Declaration until further study, actions, and information are provided, based on my points, below.

Ultimately, I believe the information that follows deserves your review and, in so doing, your department should delay and/or reject providing the Applicant a major use permit.

Two of the most key points I expand upon below that I believe should receive further assessment:

1. Fire danger in relation to the proposed Project should be assessed more closely, given access to the Project site occurs via a winding, one-lane, steep, poorly-maintained county road. It will be the only escape route for a potential 150 guests in the event of a fire emergency. One-hundred fifty guests would likely mean 40-70 fast-traveling cars would simultaneously need to successfully escape the Project site upon the one-lane, poorly maintained road. This scenario could occur amidst alcohol consumption by visitors to the Project site, given the Applicant has filed to receive an alcohol license.
2. In relation to compliance with the Biological Resources section of the Report, are you aware the Applicant has already proceeded with tree removal? Yes, I am aware that a permit is **not** required for clearing brush, but trimming or removal of trees when they were logged in March, 2017 is a regulatory compliance violation. See below for more details. In addition, note the grading and removal of trees on the Project site occurred amid more than 50 cubic yards, according to our approximation.

As a result, the Applicant is in violation of two California Department of Fish and Wildlife codes (CDFW) (3500 code series) and one federal law — the Migratory Bird Treaty Act coordinated by the U.S. Fish and Wildlife Service (USFWS) — that protect nesting bird species from negative impacts that the Applicant executed in March, 2017 by conducting its grading at the Project site. (As background, you are probably aware that a pre-grading/pre-tree removal nesting bird survey must occur from February through August annually — an action that was presumably not divulged to or submitted with a bird survey report to CDFW or the USFWS by the Applicant, and, hence that's why the it is in violation of the aforementioned CDFW and USFWS nesting bird regulatory elements.)

Ultimately, when you respond to this appeal letter, I wish you to please respond to the above violations in addition to the other comments I note below that correspond to the Initial Study areas.



Appeal Areas That Follow And Address Sections In Your Department's Report:

- Aesthetics
- Biological Resources
- Hydrology & Water Quality
- Noise
- Public Services
- Traffic

Aesthetics:

Although your Report assesses several areas of Aesthetics correctly among the check boxes within the Initial Study, I believe it is incorrect for the Initial Study checklist for this area to state that the following category would result in "less than significant impacts": "Would the Project Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?"

Here's why:

1. The Project's design creates campground units, some of which among the 18 proposed units are fewer than 100 feet from the property line where the Adjacent Parcel begins and, in addition, within 125 feet from where the Adjacent Parcel's entrance occurs. Proposed buildings and campsite units within the Project will occur within 530 feet of the Adjacent Property's home and their daily activities.

This design will result in ongoing and year-round light pollution upon normal, daily activities occurring at the Adjacent Parcel.

As a result, the check box on the Initial Study should instead be changed to read "potentially significant impact."

2. The Project's current design does not advise light source limitations for personal lighting devices that visitors would be allowed to use. The Initial Study is limited to merely noting requirements in relation to external lighting sources. In stating "exterior lighting would utilize dark sky-compliant lighting," the design would incorporate technology that points downward to minimize upward light pollution, the design fails to state the maximum light intensity that will be employed. This metric is currently unknown and/or missing in the Report. It should be revealed so you can assess its potential negative impact upon the Adjacent Property.
3. Note how #2 discusses how the Initial Study assessed external lighting sources. However, the Initial Study omits assessing how the tent campsite units utilizing interior lighting will result in negative impacts in terms of light pollution. Consider how the Collective Retreats web site features photographs depicting an overhead chandelier with multiple lamps inside each of the tents. A recent article on Collective Retreats in *Business Insider*



shows strings of lights hanging on the tents, and one photograph of a tent glowing in the nighttime.

4. Likewise, the addition of artificial lighting at the communal tent is also not addressed. For example, the dining experience advertised on the Collective Retreats website shows the communal tent, with numerous dining tables outside. These tables will require lighting — a feature that is not discussed in the proposal submitted by the Applicant.
5. To ensure the Project meets a goal of resulting in “less than significant” impacts in relation to this area, a lighting study by a lighting consultant is advised. I believe the Commission should review this study as submitted by the Applicant before recommending approval of the major use permit.

Biological Resources:

Three check boxes in the Initial Study deserve further evaluation because their current level of potential impact is not correctly assessed. These areas are addressed separately as follows:

1. For area b in the Initial Study’s checklist — Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service? — this conclusion is not possible without a qualified biologist first conducting botanical and wildlife studies. For example, the proposed Project could adversely impact one or more endangered or threatened, or otherwise rare plant species based on my search of within a database maintained by the California Native Plant Society for habitat that matches the Project’s composition² (within the United States Geological Survey 7.5 minute quadrangle for which the Project occurs in the Asti quadrangle). Two, it’s possible common and special-status species of birds could have traditional, ongoing, annual nest sites among the 18 proposed campsite units and/or within buffer zone nearby these units or nearby other planned buildings for the Project (i.e., Buffer zone for bird species is defined as roosting, foraging, and/or nesting habitat within 50 feet of a Project for songbird species and 250 feet for raptor species.).

Consequently, based on the above qualification I provided in relation to omissions in the Initial Study, the Applicant should be required to conduct botanical and bird studies on the Project site before a major use permit is approved.

2. For area c in the Initial Study’s checklist element — “Would the project have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?”, there are three issues the report fails to consider: a) the intersection of the two new roads in the southwest corner of the map,

² California Native Plant Society, Sacramento, CA. See: <http://cnps.site.aplus.net/cgi-bin/inv/inventory.cgi/Search?search=%2b%22Asti%20%28534C%29%203812278%22>



with adjacent campsite units (#6 and #7), b) the 36 space parking lot, and c) the spring itself.

- a) The organic olive grove will be negatively impacted by the altered amount of water it receives, sediment transport, or removal of soil from around the trees if the project proceeds as it is currently planned. Runoff from the project site is not currently a problem because a natural berm distributes this runoff. If the road(s) were to be constructed on the project site, they would need a culvert. A culvert at this location (adjacent to units #6 and #7) would channel the runoff onto the Adjacent Property, resulting in potentially significant damage to its organic olive grove.
- b) The parking lot may potentially alter, impede, or stop the flow of water into the Adjacent Property's 1.5 acre pond. Currently, runoff from the project property flows directly into the Adjacent Property's pond.
- c) The Applicant claims that sufficient water supply exists from the Project parcel's spring to service the campground, including events. But, this supposition begs the question: what will be the potential negative impacts upon the Adjacent Property's pond and the aquifer it depends upon to be replenished? It is apparent the answer is there are likely to be significant negative impacts upon the pond water's quality and supply (i.e., the aquifer). A study should be done by a hydrologist/geohydrologist to satisfy this issue.

As a result, based on the above information, these omissions should further be assessed. In turn, the checklist in the Initial Study should be changed to read "potentially significant impact" for this area c. In turn, the Applicant should be required to change the design of its Project so that the placement is changed for the two campsite units, either eliminating them and/or moving them to the far eastern portion of the Project site. More appropriate, to ensure this area does not result in the occurrence of potential significant impacts, the Applicant should consider developing an alternate site among the owner's 1,000+ acres.

- 3. For area d in the Initial Study's checklist — "Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? — the Project will add or enlarge at least .8 mile of road for wildlife to cross as they move east and west (and vice-versa) while using the Project site as a corridor. For several wildlife species — mountain lion, bobcat, coyote, gray fox, raccoon, striped skunk — this challenge will likely be formidable and, as a result, could result in mortality via animals injured by collisions with road vehicles.

Consequently, based on the above comments, the checklist should be updated to instead read "potentially significant impact" for this area d.

To ensure the Project meets a goal of resulting in "less than significant" impacts in relation to this area, an on-site biological assessment study should be conducted to observe for the potential presence of rare plant species and, in addition, nesting common and special-status bird species (See above in the Introduction for the required compliance need by the Applicant



to conduct nesting bird surveys for common and special-status bird species if and when it conducts construction activities on the Project site from February through August, annually.)

I believe the Commission should review a botanical and nesting bird survey that occurs during the breeding season after it is submitted by the Applicant before recommending approval of the major use permit.

Hydrology & Water Quality:

Similar to #2 in the Biological Resources comments I noted above, I believe it is incorrect for Initial Study for this area to state there would “Less Than Significant Impacts” in relation to checklist letters c, d, e, and f.

Please review my comments above in the Biological Resources are under point #2 to note how the Project would indeed likely change the drainage pattern of water entering the Adjacent Property because of the Project’s current design. In so doing, as the runoff water enters the Adjacent Property’s aforementioned pond and organic olive tree groves, it will carry pollutants from the campground activities. Pollutants could include heavy metals that originate from vehicles parked in the campground or from machinery operated in daily operations by maintenance crews. Likewise, the runoff during the rainy season would likely create substantial erosion or siltation on the Adjacent Property as it enters it from the Project.

For these reasons noted above, again, I believe it apt to change the Initial Study for this section to correctly state “Potentially Significant Impacts” will occur for checklist letters c, d, e, and f.

Ultimately, to ensure the Project meets a goal of resulting in “less than significant” impacts in relation to this area, a study by a hydrological consultant is advised. I believe the Commission should review this hydrological study as submitted by the Applicant before recommending approval of the major use permit. The hydrological consultant should also note the comments in the Biological Resources, above, while conducting his/her review and submitting a resulting study.

Beyond review of a submitted hydrological study, the Applicant should ensure its Project design complies with standards enforced by the North Coast Regional Water Quality Control Board (Board) within which the Project exists. Toward this goal, a representative from the Board should visit the Project site to review the Project design and the potential water runoff issues described above³.

³ The Board’s contact information for this region is 916-341-5455 in relation to stormwater and wastewater treatment protection.



Noise:

Appeal comments that follow for this section address the current assessment related to checklist items c and d. For c, the Report currently assesses “less than significant impact” for area c: “Would the project result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?”:

Likewise, the same judgment is employed for area d: Would the project result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?: “Would the project result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?”

As background, regulatory standards for determining noise levels and potential impact levels must be based on California Environmental Quality Act (CEQA) standards. In so doing, a planner/biologist determines “significance criteria,” meaning the effects of noise for Project should be evaluated as follows:

- 1) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?
- 2) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

Based on the close proximity of the Adjacent Property to the Project, the answer to both #1 & #2 above is “yes” — given the daily activities of the owners at the Adjacent Property will be confronted with new noise pollution sources if the Project occurs.

What are some examples of how ongoing noise would negatively impact noise levels in the project vicinity? Think about the daily operation activities that occur within a campground: delivery trucks, visitor vehicles, mowing/trimming equipment, chainsaws, music, etc., et al. Consequently, based on the above information, I believe the checklist should be updated to instead read “potentially significant impact” for this area c and d.

The Mitigated Negative Declaration states on page 18: “Generally speaking, land uses considered noise-sensitive are those in which noise can adversely affect what people are doing on the land. For example, a residential land use where people live, sleep and study is generally considered sensitive to noise because noise can disrupt these activities”. Page 19 of the Mitigated Negative Declaration acknowledges that “...noise anticipated at the site would be associated with the operation of the lodging and resort and recreational facilities, including an increased number of visitors to the site.” This is not a temporary increase, as resort operations will be a daily, ongoing activity. Additionally, the Mitigated Negative Declaration states that “wedding events would typically occur over the weekend...”. Please note that the residents on the adjacent property live and work at their residence year round, including weekends.



In summary, to ensure the Project meets a goal of resulting in “less than significant” impacts in relation to this area, a study by a noise consultant is advised. I believe the Commission should review this study as submitted by the Applicant before recommending approval of the major use permit.

Public Services:

In the checklist area for the Initial Study within the Report, two conclusions in the checklist should be reviewed:

1. One review item related to the narrative for this area states: “The project site is located within the State Responsibility Area (SRA) and is classified as a high fire hazard area.”
2. The report states: “While the expanded lodging and resort and recreational facilities would increase the amount of visitors to the site, these activities would only be temporary in nature. Therefore a less than significant impact would occur. “ This is inaccurate, as the only temporary component of this resort and campground is the guests themselves. Note the resort’s existence will be permanent along with its daily operation of facilities. In other words, the Applicant’s proposal and design is flawed, given nothing is temporary in relation to the development. The potentially significant negative impacts will be permanent.

Given the above information, consider how the winding, one-lane, steep, poorly-maintained county road will be the only escape route for a potential 150 guests in the event of a fire emergency. One-hundred fifty guests would likely mean 40-70 fast-traveling cars would simultaneously need to successfully escape the Project site upon the one-lane, poorly maintained road.

Consequently, I believe you should review your finding that a “less than significant” impact relates to the fire protection area for Public Services.

Instead, I believe you should change this checklist item to “potential significant impact” in relation to the high fire danger present within the Project’s setting and, collectively, consider the challenging design of the road that leads to it.

Ultimately, it is my professional opinion that “potential significant impact” is the only choice for to ensure public safety related to potential fire hazards in relation to “Would the Project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services?”

I believe it is the commission’s role to increase its concern that public services are more accurately assessed than the current Report accomplishes. Public safety will be endangered if a major use permit is approved for this Project. To address this concern, a traffic study (see below section) by a traffic consultant is advised. I believe the Commission should review this study as submitted by the Applicant before recommending approval of the major use permit.



Traffic:

Safety risks in relation to my aforementioned comments within the Public Services section above are equally paramount considerations for your to review for the following Traffic comments I pose.

In reviewing the areas d and e of Traffic on the checklist within the Initial Study, I ask the Commission members to ask themselves if they truly believe the potential for fire on the Project site warrants “less than significant” in answering these two questions: “Would the project substantially increase hazards due to a design feature (e.g. sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)” and “Would the project result in inadequate emergency access?”

As mentioned earlier, the poorly maintained, windy and narrow Pine Mountain Road is not designed for heavy traffic loads. The gravel access road from Pine Mountain Road to the Project site is primarily used for farm equipment. Tractors, utility trucks, offroad vehicles and other slow moving farm equipment are the most common vehicles on this access road, which is narrow and includes sharp turns with little visibility of oncoming traffic.

Equally, important, even without the presence of fire, the Project will significantly increase traffic levels that are currently only a few cars per week on the dirt road to the project parcel , thereby warranting a judgment that “potentially significant impacts” will result upon the Adjacent Property.

A renewed assessment of these areas is advised and I am confident a new appraisal would yield a conclusion that states “potential significant impacts” for traffic patterns would occur if the Project is approved, resulting in potential catastrophic consequences for human health if and when a fire occurs on the Project site.

Consequently, based on the above information, I believe the checklist should be updated to instead read “potentially significant impact” for this area c within the Initial Study.

Ultimately, to ensure the Project meets a goal of resulting in “less than significant” impacts in relation to this area, as noted above in the previous section, a study by a traffic consultant is advised. I believe the Commission should review this study as submitted by the Applicant before recommending approval of the major use permit.



Summary, Conclusions, & Recommendations

Given the above comments, I suggest the best, ideal option to ensure the Applicant receives a major use permit is for it choose an alternative location for the Project than the existing location.

This option would eliminate all of the above concerns and all of the “potentially significant impacts” would be avoided. “Less than significant” impacts would again be possible for the areas I reviewed above.

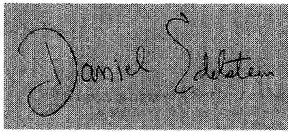
Second, note that none of the areas for which I applied comments above are by itself alone an overriding reason to delay or reject the major use permit for the Applicant. Instead, it’s the cumulative impacts that collectively result from all of the areas assessed above that should cause concern that the Project in total will result in “potentially significant impacts.”

In this sense, note that an alternative design is typically the initial and most common sense option that an Applicant chooses when asked to change its design for a project. I believe this should be your request to the Applicant: change the location of the Project to another area within its expansive holding of 1,000+ acres so it is not near the Adjacent Property.

In summary, thank you for considering the above comments as you conduct your review.

Please let me know if you have questions.

Sincerely,

A black and white photograph of a handwritten signature in cursive script, reading "Daniel Edelstein". The signature is written on a piece of paper with a visible vertical crease.

Daniel Edelstein
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