



A Tradition of Stewardship
A Commitment to Service

David Morrison
Director

MEMORANDUM

To: Napa County Planning Commission	From: David Morrison, PBES Director Brian Bordona, Supervising Planner
Date: February 19, 2019	
Re: Item No. 7B - Corrections to Water Quality and Tree Protection Ordinance	

Attached for Commission review is the Water Quality and Tree Protection Ordinance General Plan Consistency Analysis (Attachment A), recommended revisions to the proposed ordinance and supporting graphics (Attachment B), additional public comments (Attachment C).

Recommended Language Changes:

- Section 18.108.020 (D)(2)** – Staff recommends striking the reference to ~~thirty-one~~ percent and replacing it with thirty percent to be consistent with existing language elsewhere in ordinance.
- Section 18.108.025 (B)** – Staff recommends the language that provides the option to request an exception in the form of a use permit to allow limited earthmoving activities or grading to occur within the stream setback not be deleted. The specific language states, “..., or authorized by the commission through the granting of an exception if the form of a use permit pursuant to Section 18.108.040.”
- Section 18.108.025 (B)(1)** - Upon further consideration and out of an abundance of caution, Staff recommends that in the slope table contained in Section 18.108.025 (B)(1) that slopes from 30 to 70% and the corresponding setbacks from 85 feet to 150 feet not be deleted. With the Board direction of prohibiting development on slopes greater than 30%, it was initially thought that those portions of the table would no longer be necessary. However, since the slope within stream setback areas is part of the slope calculation in determining the stream setback, in the event the slope exceeded 30% the corresponding slope-based setback would be needed.
- Section 18.108.026** – Staff recommends deleting the extra “land clearing” phrase.
- Update/Replacement of Attachment B – Graphics** – Please replace the graphics in Attachment B with the revised graphics (attached). The existing graphics inadvertently applied the vegetation retention calculations solely to areas considered developable (i.e., less than 30% slope and outside of stream setbacks), rather than applying both the current and proposed policy of allowing all undeveloped areas to be included in the vegetation retention requirements.

“A”

General Plan Consistency Analysis



A Tradition of Stewardship
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Planning, Building & Environmental Services

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David Morrison
Director

To: Chair Joelle Gallagher and
Napa County Planning Commission

From: David Morrison, Director

Date February 20, 2019

Re: Water Quality and
Tree Protection Ordinance
General Plan Consistency Analysis

I. PURPOSE:

On February 20, 2019, the Planning Commission will consider certification of the Categorical Exemption for the Water Quality and Tree Protection Ordinance (“Ordinance”). This memorandum outlines the relevant goals and policies of the County’s General Plan, and analyzes whether or not the Water Quality and Tree Protection Ordinance conforms to the County General Plan, as required by Government Code Section 65402. This memorandum provides the basis upon which the Planning Commission finds consistency.

The Zoning Code, individual project proposals, and other related plans and ordinances must be consistent with the goals and policies in this General Plan. Because policies in the General Plan reflect a range of competing interests, the decision-makers are allowed to weigh and balance the Plan’s policies when applying them, and they have broad discretion to construe the policies in light of the Plan’s purposes. Balance does not require equivalence, but rather a weighing of pros and cons to achieve an acceptable mix. Thus, the General Plan states that the classifications for development serve as a guide for zoning, and zoning regulations, while they must be consistent with the Plan, need not be identical to it.

II. BACKGROUND:

The Board is the local government body charged by law with interpreting the County’s land use policies and rendering the final determination on a project’s consistency with the General Plan or lack thereof. (*San Franciscans Upholding the Downtown Plan v. City & County of San Francisco* (2002) 102 Cal.App.4th 656, 668.) Further, the Board has significant discretion in interpreting the County’s land use policies.

The purpose and intent of the proposed ordinance is to expand the existing protections for water quality and trees Countywide by amending the Conservation Regulations (County Code Chapter 18.108).

The proposed ordinance would implement three action items of the recently adopted 2019-2022 Strategic Plan. Action Item 12.A requires the County to update the Conservation Regulations to improve requirements for stream setbacks. Action Item 12.B requires the County to improve tree preservation by adopting an ordinance to increase canopy protection and mitigation requirements throughout the unincorporated area. Action Item 12.E requires the County to evaluate the modification of buffers around municipal reservoirs. The proposed ordinance would implement these action items by creating a new setback for streams that are equivalent to a Class 3, increasing tree canopy retention throughout the unincorporated area, and creating new setbacks from municipal reservoirs and wetlands.

The proposed ordinance also would implement two action items in the General Plan (2008). Conservation Action Item CON NR-1 requires the County to amend the Conservation Regulations to offer incentives such as a streamlined review process for new vineyard development and other projects that incorporate environmentally sustainable practices that avoid or mitigate significant environmental impacts. Vineyard projects of less than 5 acres on slopes of less than 15% would be exempt from the requirements of the new ordinance but still subject to CEQA and the Conservation Regulations. Conservation Action Item CON WR-3 requires an update of the Conservation Regulations to establish an appropriate protective buffer in areas that drain toward any intake structure associated with the County's sensitive domestic water supply drainages. The proposed ordinance would implement this action item by establishing new buffers for watercourses that are the equivalent to a Class 3 stream, wetlands, and municipal reservoirs.

III. CONSISTENCY ANALYSIS:

A. The Agricultural Preservation and Land Use Element:

The Introduction section of the Agricultural Preservation and Land Use (AG/LU) Element of the General Plan states: "Improving the health of the Napa River has become a community priority in recent years and is now a requirement pursuant to the Regional Water Quality Control Board's Basin Plan. This Element contains policies to ensure that future land use changes in the Napa River watershed and elsewhere in the county will be extremely modest, environmentally responsible, and supportive of the "living" river and its equilibrium." (Page AG/LU-10). The Element also states "...rural landscapes will be both productive and ecologically diverse, with abundant and healthy natural resources. See the discussion under these respective element sections below.

- ⊙ **Goal AG/LU-1:** Preserve existing agricultural land uses and plan for agriculture and related activities as the primary land uses in Napa County.
- ⊙ **Goal AG/LU-3:** Support the economic viability of agriculture, including grapegrowing, winemaking, other types of agriculture, and supporting industries to ensure the preservation of agricultural lands.

- ⊙ **Goal AG/LU-6:** Create a stable and predictable regulatory environment that encourages investment by the private sector and balances the rights of individuals with those of the community and the needs of the environment.
- ⊙ **Policy AG/LU-1:** Agriculture and related activities are the primary land uses in Napa County.
- ⊙ **Policy AG/LU-2:** “Agriculture” is defined as the raising of crops, trees, and livestock; the production and processing of agricultural products; and related marketing, sales and other accessory uses. Agriculture also includes farm management businesses and farm worker housing.
- ⊙ **Policy AG/LU-4:** The County will reserve agricultural lands for agricultural use including lands used for grazing and watershed/open space, except for those lands which are shown on the Land Use Map as planned for urban development.
- ⊙ **Policy AG/LU-12:** No new non-agricultural use or development of a parcel located in an agricultural area shall be permitted unless it is needed for the agricultural use of the parcel, except as provided in Policies AG/LU-2, AG/LU-5, AG/LU-26, AG/LU-44, AG/LU-45, and ROS-1.
- ⊙ **Policy AG/LU-17:** The County encourages active, sustainable forest management practices, including timely harvesting to preserve existing forests, retaining their health, product, and value. The County also encourages timber plantations for fuel wood and lumber production.
- ⊙ **Policy AG/LU-18:** Timber production areas in the County shall be considered to be those defined in the most recent adopted mapping available from CAL FIRE unless local areas are defined through a public planning process.
- ⊙ **Policy AG/LU-20:** The following standards shall apply to lands designated as Agriculture, Watershed, and Open Space on the Land Use Map of this General Plan.
 - Intent: To provide areas where the predominant use is agriculturally oriented; where watersheds are protected and enhanced; where reservoirs, floodplain tributaries, geologic hazards, soil conditions, and other constraints make the land relatively unsuitable for urban development; where urban development would adversely impact all such uses; and where the protection of agriculture, watersheds, and floodplain tributaries from fire, pollution, and erosion is essential to the general health, safety, and welfare.
 - General Uses: Agriculture, processing of agricultural products, single-family dwellings.

- **Minimum Parcel Size:** 160 acres, except that parcels with a minimum size of 2 acres may be created for the sole purpose of developing farm labor camps by a local government agency authorized to own or operate farm labor camps, so long as the division is accomplished by securing the written consent of a local government agency authorized to own or operate farm labor camps that it will accept a conveyance of the fee interest of the parcel to be created and thereafter conveying the fee interest of such parcel directly to said local government agency, or entering into a long-term lease of such parcels directly with said local government agency.
 - Every lease or deed creating such parcels must contain language ensuring that if the parcel is not used as a farm labor camp within three years of the conveyance or lease being executed or permanently ceases to be used as a farm labor camp by a local government agency authorized to develop farm labor camps, the parcel will automatically revert to, and merge into, the original parent parcel.
 - Maximum Building Intensity: One dwelling per parcel (except as specified in the Housing Element). Nonresidential building intensity is non-applicable.
- ⊙ **Policy AG/LU-46:** All existing and legally established nonconforming uses shall be allowed to continue to operate and to use existing buildings and/or facilities provided they are not determined to be a public nuisance or voluntarily abandoned as defined by the zoning ordinance. Legal nonconforming buildings and facilities may be rehabilitated or rearranged, as long as there is no increase in the intensity of use.
- ⊙ **Policy AG/LU-47:** Legal structures and uses destroyed by fire or natural disaster may be rebuilt within the time period established by the zoning ordinance or as otherwise approved by the County, whether or not they conformed to the zoning ordinance at the time of the fire/disaster.
- ⊙ **Policy AG/LU-106:** The County shall seek to ensure that equal treatment is provided to all persons, communities, and groups within the county in its planning and decision-making processes, regardless of race, age, religion, color, national origin, ancestry, physical or mental disability, medical condition, marital status, gender, self-identified gender or sexual orientation, or economic status.
- ⊙ **Policy AG/LU-107:** The County shall provide a clear, consistent, timely, and predictable review process for all proposed projects, ensuring that all applicants are treated fairly, that staff's analysis is objective, and that decision-makers and interested members of the public receive information and notice as required by law.
- ⊙ **Policy AG/LU-108:** With the proviso that no rights are absolute, that we will all best be served by striking a balance between private property rights and all our other rights and our other important community values, this General Plan nevertheless explicitly acknowledges that private ownership provides valuable incentives for the proper care of property and the

environment, that preservation of property rights is an important cultural, economic, and community value, that protection of property rights is one of the primary and necessary functions of government at all levels, and that private property rights are therefore deserving of respect and consideration whenever land use decisions are made.

- ⊙ **Policy AG/LU-109:** The County recognizes the principle of sustainability by seeking to address community needs without compromising the ability of future generations to meet their own needs.

- ⊙ **Policy AG/LU-111:** Limitations on General Plan Amendments relating to Agricultural, Watershed, and Open Space and Agricultural Lands:
 - a) Until December 31, 2058, the provisions governing the intent and maximum building intensity for lands designated Agriculture, Watershed and Open Space and Agricultural Resource set forth in Policies AG/LU-20 and 21 (which are identical to Sections 3.F.7.a, 3.F.7.d, 3.F.8.a, and 3.F.8.d of the Agricultural Preservation and Land Use Element adopted on June 7, 1983, as amended through September 28, 2007 [hereinafter the “Land Use Element”]), shall not be amended unless such amendment is approved by vote of the people. Until December 31, 2058, the provisions governing minimum parcel size for lands designated Agriculture, Watershed and Open Space and Agricultural Resource set forth in Policies AG/LU-20 and 21 shall not be amended to reduce minimum parcel sizes unless such amendment is approved by vote of the people.
 - b) All those lands designated as Agriculture, Watershed and Open Space or Agricultural Resource on the Napa County General Plan Land Use Map adopted by the Board of Supervisors (hereinafter, Board”) on September 8, 1975, as amended through September 28, 2007 (hereinafter “Land Use Map”), shall remain so designated until December 31, 2058, unless said land is annexed to or otherwise included within a city or town, redesignated to another General Plan land use category by vote of the people, or redesignated by the Board pursuant to procedures set forth in subsections c, d, e, or f below.
 - c) Land designated as Agriculture, Watershed and Open Space on the Land Use Map may be redesignated to a Public Institutional General Plan area classification by the Board pursuant to its usual procedures and without a vote of the people if such redesignation is necessary to comply with the countywide siting element requirements of Public Resources Code section 41700 *et seq.* as those sections currently exist or as they may be amended from time to time, but only to the extent of designating solid waste transformation or disposal facilities needed for solid waste generated within Napa County (including the cities and town within the County).
 - d) Land designated as Agriculture, Watershed and Open Space or Agricultural Resource on the Land Use Map may be redesignated to a land use designation other than Agriculture, Watershed and Open Space or Agricultural Resource by the Board pursuant to its usual procedures and without a vote of the people only if the Board makes all of the following findings:

- i) Annexation to or otherwise including the land within a city or town is not likely.
 - ii) The land is immediately adjacent to areas developed in a manner comparable to the proposed use.
 - iii) Adequate public services and facilities are available and have the capability to accommodate the proposed use by virtue of the property being within or annexed to appropriate service districts.
 - iv) The proposed use is compatible with agricultural uses, does not interfere with accepted agricultural practices, and does not adversely affect the stability of land use patterns in the area.
 - v) The land proposed for redesignation has not been used for agricultural purposes in the past 2 years and is unusable for agriculture due to its topography, drainage, flooding, adverse soil conditions, or other physical reasons.
 - vi) The land proposed for redesignation pursuant to subsection (d) does not exceed 40 acres for any one landowner in any calendar year, and one landowner may not obtain redesignation in the General Plan of Agriculture, Watershed and Open Space or Agricultural Resource land pursuant to subsection (d) more often than every other year. Landowners with any unity of interest are considered one landowner for purposes of this limitation.
 - vii) The applicant for redesignation and its successors will not extract groundwater from the affected property or use pumped groundwater as a water source on the affected property except pursuant to a valid groundwater permit or use permit meeting the requirements of the Napa County Groundwater Conservation Ordinance, unless a final determination of exemption or waiver is made under that ordinance.
- e) Land designated as Agriculture, Watershed and Open Space or Agricultural Resource on the Land Use Map may be redesignated to another land use category by the Board pursuant to its usual procedures and without a vote of the people if each of the following conditions is satisfied:
- i) The Board makes a finding that the application of Policy AG/LU-111(b), above, would constitute an unconstitutional taking of the landowner's property; and
 - ii) In permitting the redesignation, the Board allows additional land uses only to the extent necessary to avoid said unconstitutional taking of the landowner's property.
- f) Nothing in Policy AG/LU-111(b), above shall be construed or applied to prevent the County from complying with its housing obligations under State law. Where necessary to comply with applicable State law governing the provision of housing, the Board may redesignate land designated as "Agriculture, Watershed and Open Space" or "Agricultural Resource" on the Land Use Map to a land use designation other than "Agriculture, Watershed and Open Space" or "Agricultural Resource" pursuant to its usual procedures and without a vote of the people, upon making all of the following findings:

- i) The redesignation is necessary to comply with a State law imposing a mandatory housing obligation in effect at the time redesignation is sought (“applicable State housing law”);
 - ii) There is no suitable land available in the unincorporated areas of the County, other than lands designated as “Agriculture, Watershed and Open Space” or “Agricultural Resource,” that may be used to satisfy the applicable State housing law;
 - iii) It is not feasible to satisfy the applicable State housing law using lands within an incorporated city or town;
 - iv) No more land is redesignated pursuant to this subsection than is necessary to comply with the applicable State housing law;
 - v) To the extent permissible under State law, and to the extent feasible, the redesignation includes policies providing that any development proposed for the redesignated lands will consist of affordable housing, and effective restrictions will maintain the housing as affordable in perpetuity. For purposes of this paragraph (v), “affordable housing” shall mean housing affordable to lower income households as defined in section 50079.5 of the Health and Safety Code, as that section may be amended from time to time; and
 - vi) To the extent permissible under State law, and to the extent feasible, any land redesignated pursuant to this subsection shall be located adjacent to the boundaries of an incorporated city or town or, if adjacency is not feasible, in a location that is the closest to the boundaries of an incorporated city or town of the feasible options available.
 - g) Approval by a vote of the people is accomplished when a General Plan amendment is placed on the ballot through any procedure provided for in the Election Code, and a majority of the voters vote in favor of it. The Board may adopt a general plan amendment prior to securing a vote of the people; provided, however that whenever the Board adopts an amendment requiring approval by a vote of the people pursuant to the provisions of Policy AG/LU-111(b), the Board action shall have no effect until after such a vote is held and a majority of the voters vote in favor of it. The Board shall follow the provisions of the Election Code in all matters pertaining to such an election
- © **Policy AG/LU-118: The County is committed to maintaining the quality of life in Napa County through enforcing regulations and codes. The County shall uniformly and fairly enforce codes and regulations, and shall assign high priority to abatement of violations that may constitute potential threats to public health or safety or that may cause significant environmental damage.**

Analysis:

By codifying many of staff’s current practices, the Ordinance improves the predictability and stability of the regulatory process for earth-moving activities. The Ordinance creates detailed and specific provisions for the consistent administration of the Conservation Regulations, and

requires a comprehensive and fact-based analysis for decision-making. The Ordinance also provides flexibility in the implementation of these requirements, to allow for solutions based on each unique site that best balance the needs of both property owners and the environment.

The Ordinance does not allow any new non-agricultural uses on land designated for agriculture, and would continue to provide opportunities for new vineyard expansion and development. The economic viability of agriculture and supporting businesses is supported by the Ordinance through reasonable and moderate regulations, while continuing to provide improved environmental protection. Nothing in the Ordinance would change the designation of lands designated as Agriculture, Watershed, and Open Space.

Acknowledging the need for forest management practices performed under professional oversight, the Ordinance includes an exemption for earth moving included as part of an approved Timber Harvest Permit. It also exempts activities carried out by state and federal agencies, as well as those of municipal agencies carried out on land owned by the city/town.

Exemptions have been included in the Ordinance to ensure that legally established non-conforming uses and structures destroyed by disaster may be rebuilt and/or modified, so long as they do not encroach further into any established setbacks.

Provisions in the Ordinance will establish and/or increase setbacks for streams, wetlands, and reservoirs. The Ordinance will also increase retention requirements for trees and shrub lands, including enhanced mitigation requirements. These protections will improve sustainability for watersheds and ecosystems throughout the unincorporated area.

The Ordinance creates detailed and specific provisions for the consistent administration of the Conservation Regulations. Procedures established under the Ordinance would apply equally to all applicants and interested parties. By creating a uniform and fair process, the Ordinance ensures effective enforcement.

The Ordinance is consistent with the Agriculture, Watershed, and Open Space designation of the General Plan. It allows properties to remain in predominantly agricultural uses. New protections for watersheds are established and increased. Earth moving activities are prohibited in and near reservoirs, streams, geologic hazards, poor soil conditions, and other constraints that make the land relatively unsuitable for development. Finally, the Ordinance increases the protection of agriculture and watersheds from the effects of fire, pollution, and erosion, the reduction of which are essential to public health and welfare.

Conclusion: Consistent.

B. The Circulation Element:

The Introduction section of the Circulation (CIR) Element of the General Plan states: "In Napa County, protecting the rural character of the area and minimizing the cost of new road expansion are both priorities. Consequently, building new or wider roads has been limited to only a few locations where deemed to be both feasible and desirable. In this way, the County expresses that preservation of the area's character is a higher priority than achieving the most efficient mobility outcomes." (Page CIR-9). See the discussion under these respective element sections below.

- ⊙ Goal CIR-1: The County's transportation system shall complement the policies of the Agricultural Preservation and Land Use Element to protect the County's rural character.
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- ⊙ Policy CIR-3: Consistent with urban-centered growth policies in the Agricultural Preservation and Land Use Element, new residential and commercial development shall be concentrated within existing cities and towns and urbanized areas, particularly within Priority Development Areas (PDAs), where higher population densities can have access to utilize transit services and pedestrian and bicycle facilities.
- ⊙ Policy CIR-18: Roadways outside the urbanized areas of the County shall reflect the rural character of the County.
- ⊙ Policy CIR-20: Roadway modifications and capacity expansions shall be designed to conform to existing landforms and shall include landscaping and/or other treatments to ensure that aesthetics and rural character are preserved.
- ⊙ Policy CIR-42: Roadway, culvert, and bridge improvements and repairs shall be designed and constructed to minimize fine-sediment and other pollutant delivery to waterways, to minimize increases in peak flows and flooding on adjacent properties, and where applicable, to allow for fish passage and migration, consistent with all applicable codes and regulations.

Analysis:

As described previously, the Ordinance is determined to be consistent with the Agricultural Preservation and Land Use Element.

The Ordinance would not allow any new residential or commercial uses in areas located outside of existing cities, towns, and urbanized areas.

Private driveways and agricultural roads are subject to the provisions of the Ordinance, which require them to complement the natural landform, avoid excessive grading, and minimize erosion and pollution.

Conclusion: Consistent.

C. The Community Character Element:

The Introduction section of the Community Character (CC) Element of the General Plan states: "Although not as well known as the Napa Valley, the mountains, hills, and valleys in the eastern portion of the county have their own distinctive character. The scenery of these valleys in the county's rugged eastern area ranges from densely forested groves of redwood, oak, and pine, to shrub and grasslands, to rolling, grass-covered hills punctuated by massive oak trees... The County's 2001 Viewshed Protection Ordinance sets forth hillside development standards to minimize the impact of man-made structures and grading on views from designated public roads in the County. The ordinance is intended to preserve the unique scenic quality of Napa County and protect the ridgelines and hillsides of the county from insensitive development." (Page CC-1). See the discussion under these respective element sections below.

- ⊙ **Policy CC-4:** Consistent with current regulations regarding road setbacks and fences, the County shall preserve the existing significant natural features by requiring all development to retain the visually open, rural character of the County and by allowing solid sound walls only in unique circumstances and where acceptable noise levels are exceeded.
- ⊙ **Policy CC-5:** Recognizing that vineyards are an accepted and attractive visual feature of Napa County, but that visual changes can cause public concern, the County shall require the retention of trees in strategic locations when approving conversion of existing forested land to vineyards in order to retain landscape characteristics of the site when viewed from public roadways and shall require the retention of trees to screen non-agricultural activities and other proposed developments.
- ⊙ **Policy CC-6:** The grading of building sites, vineyards, and other uses shall incorporate techniques to retain as much as possible a natural landform appearance. Examples include:
 - The overall shape, height, and grade of any cut or fill slope shall be designed to simulate the existing natural contours and scale of the natural terrain of the site.
 - The angle of the graded slope shall be gradually adjusted to the angle of the natural terrain.
 - Sharp, angular forms shall be rounded and smoothed to blend with the natural terrain.
- ⊙ **Policy CC-10:** Consistent with the County's Viewshed Protection Program, new developments in hillside areas should be designed to minimize their visibility from the County's scenic roadways and discourage new encroachments on natural ridgelines. The

County shall continue implementation of the Viewshed Protection Program and shall apply the protective provisions of the program to all public projects.

- ⊙ **Policy CC-22:** The County supports efforts to recognize and perpetuate historic vineyard uses and should consider ways to provide formal recognition of “heritage” landscapes, trees, and other landscape features with owner consent.

Analysis:

By preserving significant natural features, the Ordinance will assist in maintaining the open, rural character of Napa County. Requirements in the Ordinance will further ensure that grading retains a natural looking landform appearance.

The Ordinance would expand the requirement for tree canopy retention throughout the unincorporated area, and would increase the existing retention rate. This will further protect views from public roadways from adverse exposure to deforestation and/or unscreened non-agricultural uses. New development will be regulated to minimize visibility and encroachment on natural areas.

The replanting and maintenance of existing vineyards would be exempt from the requirements of the Ordinance.

Conclusion: Consistent.

D. The Conservation Element:

The Conservation (CON) Element of the General states that, "This Conservation Element provides goals, policies, and action items related to open space conservation as well as a wide range of other topics that together comprise the natural environment of Napa County, including its natural resources and its water resources. The goals and policies contained in this element also address climate change and sustainable practices for environmental health related to water, energy conservation, air pollutant, greenhouse gas emissions, clean energy generation, and similar issues." (Page CON-1). See the discussion under these respective element sections below.

- ⊙ **Goal CON-1:** The County of Napa will conserve resources by determining the most appropriate use of land, matching land uses and activities to the land’s natural suitability, and minimizing conflicts with the natural environment and the agriculture it supports.
- ⊙ **Goal CON 2:** Maintain and enhance the existing level of biodiversity.

- ⊙ **Goal CON-3:** Protect the continued presence of special status species, including special-status plants, special-status wildlife, and their habitats, and comply with all applicable state, federal or local laws or regulations.
- ⊙ **Goal CON-4:** Conserve, protect, and improve plant, wildlife, and fishery habitats for all native species in Napa County.
- ⊙ **Goal CON-5:** Protect connectivity and continuous habitat areas for wildlife movement.
- ⊙ **Goal CON-6:** Preserve, sustain, and restore forests, woodlands, and commercial timberland for their economic, environmental, recreation, and open space values.
- ⊙ **Goal CON-9:** Control urban and rural storm water runoff and related non-point source pollutants, reducing to acceptable levels pollutant discharges from land-based activities throughout the County.
- ⊙ **Goal CON-10:** Conserve, enhance and manage water resources on a sustainable basis to attempt to ensure that sufficient amounts of water will be available for the uses allowed by this General Plan, for the natural environment, and for future generations.
- ⊙ **Goal CON-14:** Promote policies to ensure the long-term sustainability of Napa County, including its environment, economy, and social equity.
- ⊙ **Goal CON-15:** Reduce emissions of local greenhouse gases that contribute to climate change.
- ⊙ **Policy CON-1:** The County will preserve land for greenbelts, forest, recreation, flood control, adequate water supply, air quality improvement, habitat for fish, wildlife and wildlife movement, native vegetation, and natural beauty. The County will encourage management of these areas in ways that promote wildlife habitat renewal, diversification, and protection.
- ⊙ **Policy CON-2:** The County shall identify, improve, and conserve Napa County's agricultural land through the following measures:
 - a) Limit growth to minimize urban development on agricultural land and reduce conflict with the agricultural operations and economy.
 - b) Provide a permanent means of preservation of open space land for agricultural production.
 - c) Require that existing significant vegetation be retained and incorporated into agricultural projects to reduce soil erosion and to retain wildlife habitat. When retention is found to be infeasible, replanting of native or non-invasive vegetation shall be required.

- d) Encourage the use of recycled water, particularly within groundwater deficient areas, for vegetation enhancement, frost protection, and irrigation to enhance agriculture and grazing.
 - e) Encourage inter-agency and inter-disciplinary cooperation, recognizing the agricultural commissioner's role as a liaison and the need to monitor and evaluate pesticide and herbicide programs over time and to potentially develop air quality, wildlife habitat, or other programs if needed to prevent environmental degradation.
 - f) Minimize pesticide and herbicide use and encourage research and use of integrated pest control methods such as cultural practices, biological control, host resistance, and other factors.
 - g) Encourage the use of Williamson Act contracts and use techniques to preserve agricultural lands.
 - h) Coordinate with municipalities' adopting and implementing policies, such as large lot zoning and urban limit lines, to limit urban expansion and encourage development of vacant land in areas already urbanized.
- ⊙ **Policy CON-4:** The County recognizes that preserving watershed open space is consistent with and critical to the support of agriculture and agricultural preservation goals.
- ⊙ **Policy CON-5:** The County shall identify, improve, and conserve Napa County's rangeland through the following measures:
- a) Providing a permanent means of preservation of open space areas for rangeland.
 - b) Encouraging responsible brush removal techniques with adequate environmental safeguards, leaving uncleared islands and peninsulas to provide cover for wildlife.
 - c) Staging land conversion operations to minimize adverse environmental impact on the watershed.
 - d) Encouraging livestock management activities to avoid long-term destruction of rangeland productivity and watershed capacity through overgrazing, erosion, or damage to riparian areas.
- ⊙ **Policy CON-6:** The County shall impose conditions on discretionary projects which limit development in environmentally sensitive areas such as those adjacent to rivers or streamside areas and physically hazardous areas such as floodplains, steep slopes, high fire risk areas and geologically hazardous areas.
- ⊙ **Policy CON-9:** The County shall pursue a variety of techniques and practices to achieve the County's Open Space Conservation policies, including:
- a) Exclusive agriculture zoning or Transfer of Development Rights.
 - b) Acquisition through purchase, gift, grant, bequest, devise, lease, or otherwise, the fee or any lesser interest or right in real property.
 - c) Williamson Act or other incentives to maintain land in agricultural production or other open space uses.

- d) Requirements for mitigation of development impacts, either on-site or at other locations in the county or through the payment of in-lieu fees in limited circumstances when impacts cannot be avoided.
- ⊙ **Policy CON-11:** The County shall maintain and improve fisheries habitat through a variety of appropriate measures, including the following as well as best management practices developed over time:
- a) Consider the feasibility of using reclaimed wastewater as a means of maintaining adequate water flow to support fish life and reduce pollution of the Napa River.
 - b) Consider all feasible ways to maintain and restore sufficient flows and channel characteristics necessary for fish passage consistent with state and federal guidelines.
 - c) Undertake and publicize water use conservation strategies necessary to protect and prolong the duration of in-stream flows for aquatic resources including migrating anadromous fish such as steelhead and Chinook salmon.
 - d) Encourage and support programs and efforts related to fishery habitat restoration and improvement including steelhead presence surveys, development and utilization of hydraulic modeling, and removal of fish barriers.
 - e) Manage the removal of invasive vegetation and the retention of other riparian vegetation to reduce the potential for increased water temperatures and siltation and to improve fishery habitat.
 - f) Pursue consolidated and streamlined regulatory review of fisheries and wildlife habitat restoration projects.
 - g) Encourage the retention of large woody debris in streams to the extent consistent with flood control considerations.
 - h) Encourage the use of effective vegetated buffers between urban runoff and local storm drains.
 - i) Promote and support forest management efforts and fire reduction practices in coordination with the California Department of Forestry and Fire Protection that reduce fuel loads and provide protection for water quality and fish habitat.
 - j) Require mitigation of gravel removal activities so they result in no net adverse effects to streambed attributes, temperature, habitat, and water quality necessary for native fisheries health. This may include restoration and improvement of impacted areas (e.g., gravel areas and pools and woody-debris areas). Gravel removal that results in adverse impacts to native fisheries shall be determined to have a significant impact under CEQA.
 - k) Implement sediment reduction measures in sand and gravel operations and other high sediment-producing land uses.
 - l) Control gravel removal and degradation from stream beds to minimize the adverse effects upon the spawning and feeding areas of fish.
 - m) Control sediment production from mines, roads, development projects, agricultural activities, and other potential sediment sources.
 - n) Implement road construction and maintenance practices to minimize bank failure and sediment delivery to streams.

- o) Enforce boat speed limits to reduce damage to warm water game fish fisheries.
- ⊙ **Policy CON-13:** The County shall require that all discretionary residential, commercial, industrial, recreational, agricultural, and water development projects consider and address impacts to wildlife habitat and avoid impacts to fisheries and habitat supporting special-status species to the extent feasible. Where impacts to wildlife and special-status species cannot be avoided, projects shall include effective mitigation measures and management plans including provisions to:
 - a) Maintain the following essentials for fish and wildlife resources:
 - 1) Sufficient dissolved oxygen in the water.
 - 2) Adequate amounts of proper food.
 - 3) Adequate amounts of feeding, escape, and nesting habitat.
 - 4) Proper temperature through maintenance and enhancement of streamside vegetation, volume of flows, and velocity of water.
 - b) Ensure that water development projects provide an adequate release flow of water to preserve fish populations.
 - c) Employ supplemental planting and maintenance of grasses, shrubs and trees of like quality and quantity to provide adequate vegetation cover to enhance water quality, minimize sedimentation and soil transport, and provide adequate shelter and food for wildlife and special-status species and maintain the watersheds, especially stream side areas, in good condition.
 - d) Provide protection for habitat supporting special-status species through buffering or other means.
 - e) Provide replacement habitat of like quantity and quality on- or off-site for special status species to mitigate impacts to special-status species.
 - f) Enhance existing habitat values, particularly for special-status species, through restoration and replanting of native plant species as part of discretionary permit review and approval.
 - g) Require temporary or permanent buffers of adequate size (based on the requirements of the subject special-status species) to avoid nest abandonment by birds and raptors associated with construction and site development activities.
 - h) Demonstrate compliance with applicable provisions and regulations of recovery plans for federally listed species.
- ⊙ **Policy CON-14:** To offset possible losses of fishery and riparian habitat due to discretionary development projects, developers shall be responsible for mitigation when avoidance of impacts is determined to be infeasible. Such mitigation measures may include providing and permanently maintaining similar quality and quantity habitat within Napa County, enhancing existing riparian habitat, or paying in-kind funds to an approved fishery and riparian habitat improvement and acquisition fund. Replacement habitat may occur either on-site or at approved off-site locations, but preference shall be given to on-site replacement.

- ⊙ **Policy CON-16:** The County shall require a biological resources evaluation for discretionary projects in areas identified to contain or potentially contain special-status species based upon data provided in the Baseline Data Report (BDR), California Natural Diversity Database (CNDDDB), or other technical materials. This evaluation shall be conducted prior to the approval of any earthmoving activities. The county shall also encourage the development of programs to protect special-status species and disseminate updated information to state and federal resource agencies.

- ⊙ **Policy CON-17:** Preserve and protect native grasslands, serpentine grasslands, mixed serpentine chaparral, and other sensitive biotic communities and habitats of limited distribution. The county, in its discretion, shall require mitigation that results in the following standards:
 - a) Prevent removal or disturbance of sensitive natural plant communities that contain special-status plant species or provide critical habitat to special-status animal species.
 - b) In other areas, avoid disturbances to or removal of sensitive natural plant communities and mitigate potentially significant impacts where avoidance is infeasible.
 - c) Promote protection from overgrazing and other destructive activities.
 - d) Encourage scientific study and require monitoring and active management where biotic communities and habitats of limited distribution or sensitive natural plant communities are threatened by the spread of invasive non-native species.
 - a) Require no net loss of sensitive biotic communities and habitats of limited distribution through avoidance, restoration, or replacement where feasible. Where avoidance, restoration, or replacement is not feasible, preserve like habitat at a 2:1 ratio or greater within Napa County to avoid significant cumulative loss of valuable habitats.

- ⊙ **Policy CON-18:** To reduce impacts on habitat conservation and connectivity:
 - a) In sensitive domestic water supply drainages where new development is required to retain between 40 and 60 percent of the existing (as of June 16, 1993) vegetation onsite, the vegetation selected for retention should be in areas designed to maximize habitat value and connectivity.
 - b) Outside of sensitive domestic water supply drainages, streamlined permitting procedures should be instituted for new vineyard projects that voluntarily retain valuable habitat and connectivity, including generous setbacks from streams and buffers around ecologically sensitive areas.
 - c) Preservation of habitat and connectivity of adequate size, quality, and configuration to support special-status species should be required within the project area. The size of habitat and connectivity to be preserved shall be determined based on the specific needs of the species.
 - d) The county shall require discretionary projects to retain movement corridors of adequate size and habitat quality to allow for continued wildlife use based on the needs of the species occupying the habitat.

- e) The County shall require new vineyard development to be designed to minimize the reduction of wildlife movement to the maximum extent feasible. In the event the County concludes that such development will have a significant impact on wildlife movement, the County may require the applicant to relocate or remove existing perimeter fencing installed on or after February 16, 2007 to offset the impact caused by the new vineyard development.
 - f) The County shall disseminate information about impacts that fencing has on wildlife movement in wild land areas of the County and encourage property owners to use permeable fencing.
 - g) The County shall develop a program to improve and continually update its database of biological information, including identifying threats to wildlife habitat and barriers to wildlife movement.
 - h) Support public acquisition, conservation easements, in-lieu fees where on-site mitigation is infeasible, and/or other measures to ensure long-term protection of wildlife movement areas.
- ⊙ **Policy CON-19:** The County shall encourage the preservation of critical habitat areas and habitat connectivity through the use of conservation easements or other methods as well as through continued implementation of the Napa County Conservation Regulations associated with vegetation retention and setbacks from waterways.
- ⊙ **Policy CON-22:** The County shall encourage the protection and enhancement of natural habitats which provide ecological and other scientific purposes. As areas are identified, they should be delineated on environmental constraints maps so that appropriate steps can be taken to appropriately manage and protect them.
- ⊙ **Policy CON-24:** Maintain and improve oak woodland habitat to provide for slope stabilization, soil protection, species diversity, and wildlife habitat through appropriate measures including one or more of the following:
- a) Preserve, to the extent feasible, oak trees and other significant vegetation that occur near the heads of drainages or depressions to maintain diversity of vegetation type and wildlife habitat as part of agricultural projects.
 - b) Comply with the Oak Woodlands Preservation Act (PRC Section 21083.4) regarding oak woodland preservation to conserve the integrity and diversity of oak woodlands, and retain, to the maximum extent feasible, existing oak woodland and chaparral communities and other significant vegetation as part of residential, commercial, and industrial approvals.
 - c) Provide replacement of lost oak woodlands or preservation of like habitat at a 2:1 ratio when retention of existing vegetation is found to be infeasible. Removal of oak species limited in distribution shall be avoided to the maximum extent feasible.

- d) Support hardwood cutting criteria that require retention of adequate stands of oak trees sufficient for wildlife, slope stabilization, soil protection, and soil production be left standing.
 - e) Maintain, to the extent feasible, a mixture of oak species which is needed to ensure acorn production. Black, canyon, live, and brewer oaks as well as blue, white, scrub, and live oaks are common associations.
 - c) Encourage and support the County Agricultural Commission's enforcement of state and federal regulations concerning Sudden Oak Death and similar future threats to woodlands.
- ⊙ **Policy CON-26:** Consistent with Napa County's Conservation Regulations, natural vegetation retention areas along perennial and intermittent streams shall vary in width with steepness of the terrain, the nature of the undercover, and type of soil. The design and management of natural vegetation areas shall consider habitat and water quality needs, including the needs of native fish and special status species and flood protection where appropriate. Site-specific setbacks shall be established in coordination with Regional Water Quality Service, and other coordinating resource agencies that identify essential stream and stream reaches necessary for the health of populations of native fisheries and other sensitive aquatic organisms within the County's watersheds.

Where avoidance of impacts to riparian habitat is infeasible along stream reaches, appropriate measures will be undertaken to ensure that protection, restoration, and enhancement activities will occur within these identified stream reaches that support or could support native fisheries and other sensitive aquatic organisms to ensure a no net loss of aquatic habitat functions and values within the county's watersheds. Control Boards, California Department of Fish and Game, U.S. Fish and Wildlife Service, National Oceanic and Atmospheric Administration National Marine Fisheries

- ⊙ **Policy CON-28:** To offset possible additional losses of riparian woodland due to discretionary development projects and conversions, developers shall provide and maintain similar quality and quantity of replacement habitat or in-kind funds to an approved riparian woodland habitat improvement and acquisition fund in Napa County. While on-site replacement is preferred where feasible, replacement habitat may be either on-site or off-site as approved by the County.
- ⊙ **Policy CON-30:** All public and private projects shall avoid impacts to wetlands to the extent feasible. If avoidance is not feasible, projects shall mitigate impacts to wetlands consistent with state and federal policies providing for no net loss of wetland function.
- ⊙ **Policy CON-35:** The County shall encourage active forest management practices to preserve and maintain existing forests and timberland, allowing for their economic and beneficial use.

- ⊙ **Policy CON-41:** The County will work to protect Napa County's watersheds and public and private water reservoirs to provide for the following purposes:
 - a) Clean drinking water for public health and safety;
 - b) Municipal uses, including commercial, industrial and domestic uses;
 - c) Support of the eco-systems;
 - d) Agricultural water supply;
 - e) Recreation and open space; and
 - f) Scenic beauty.

- ⊙ **Policy CON-43:** Pursuant to the Open Space and Conservation goals and policies that conserve open space and recreational resources, the County shall protect and enhance watershed lands, including the downstream delivery of essential watershed resources and benefits from headwater channels. The County's efforts shall include:
 - a) Preserving and where economically feasible restoring the density and diversity of water dependent species and continuous riparian habitats based on sound ecological principles; and
 - b) Supporting the acquisition, development, maintenance and restoration of habitat lands for wildlife and watershed enhancement where clearly consistent with General Plan policies.

- ⊙ **Policy CON-44:** The County shall identify, improve, and conserve Napa County's surface water resources through the following measures:
 - a) Evaluate and develop land use policies resulting in the appropriate density and mix of impervious surface and stable vegetation cover to improve water quality and reduce surface water pollution and siltation within domestic water supply watersheds.
 - b) Encourage public agencies and private individuals to explore environmentally sensitive ways to store winter runoff in consultation with the State Department of Water Resources and other regulatory agencies.
 - c) Promote a balanced approach to managing reservoir outflows, particularly municipal supply reservoirs, through coordination with cities and town to maintain a reliable water supply for domestic uses, minimize flooding, and preserve fish habitat and riparian vegetation.
 - d) Work with other agencies to develop a comprehensive understanding of potential deficiencies in surface water supplies, and coordinate with private property owners on a voluntary basis to collect additional surface water data and implement an expanded voluntary monitoring effort to ensure development of effective water management and conservation strategies where appropriate.

- ⊙ **Policy CON-45:** Protect the County's domestic supply drainages through vegetation preservation and protective buffers to ensure clean and reliable drinking water consistent with state regulations and guidelines. Continue implementation of current Conservation

Regulations relevant to these areas, such as vegetation retention requirements, consultation with water purveyors/system owners, implementation of erosion controls to minimize water pollution, and prohibition of detrimental recreational uses.

- ⊙ **Policy CON-47:** The County shall comply with applicable Water Quality Control/Basin Plans as amended through the Total Maximum Daily Load (TMDL) process to improve water quality. In its efforts to comply, the following may be undertaken:
 - a) Monitoring water quality in impaired waterbodies identified by the Regional Water Quality Control Board(s).
 - b) Addressing failing septic systems in the vicinity of Murphy, Browns Valley, and Salvador Creeks and throughout the County, should they be found to exist.
 - c) Retrofitting County-maintained roads to reduce sediment caused by runoff.
 - d) Supporting voluntary habitat restoration and bank stabilization efforts, with particular focus on the main stem and main tributaries of the Napa River.
 - e) Ensuring continued effectiveness of the National Pollution Discharge Elimination System (NPDES) program and storm water pollution prevention.
 - f) Ensuring continued effectiveness of the County's Conservation Regulations related to vineyard projects and other earth-disturbing activities.
 - g) Addressing effects related to past and current mining, grazing, and other activities to the extent feasible.
 - h) Amending the County's Conservation Regulations or County Code to address excessive sediment delivered to waterways as required by state law, particularly as it relates to private roads and rural unimproved (i.e., dirt or gravel) roads.
 - i) Developing outreach and education programs to inform land owners and managers about improving surface water quality (e.g., rural and private road maintenance, soil and vegetation retention, construction site management, runoff control, etc.) and cooperating with other governmental and non-governmental agencies seeking to establish waiver or certification programs.

- ⊙ **Policy CON-48:** Proposed developments shall implement project-specific sediment and erosion control measures (e.g., erosion control plans and/or stormwater pollution prevention plans) that maintain pre-development sediment erosion conditions or at minimum comply with state water quality pollution control (i.e., Basin Plan) requirements and are protective of the County's sensitive domestic supply watersheds. Technical reports and/or erosion control plans that recommend site-specific erosion control measures shall meet the requirements of the County Code and provide detailed information regarding site specific geologic, soil, and hydrologic conditions and how the proposed measure will function.

- ⊙ **Policy CON-49:** The County shall develop and implement a water quality monitoring program (or programs) to track the effectiveness of temporary and permanent Best Management Practices (BMPs) to control soil erosion and sedimentation within watershed

areas and employ corrective actions for identified water quality issues (in violation of Basin Plans and/or associated TMDLs) identified during monitoring.

- ⊙ **Policy CON-50:** The County will take appropriate steps to protect surface water quality and quantity, including the following:
 - a) Preserve riparian areas through adequate buffering and pursue retention, maintenance, and enhancement of existing native vegetation along all intermittent and perennial streams through existing stream setbacks in the County's Conservation Regulations
 - b) Encourage flood control reduction projects to give full consideration to scenic, fish, wildlife, and other environmental benefits when computing costs of alternative methods of flood control.
 - c) The County shall require discretionary projects to meet performance standards designed to ensure peak runoff in 2-, 10-, 50-, and 100-year events following development is not greater than predevelopment conditions.
 - d) The County shall require discretionary projects to meet performance standards designed to ensure peak runoff in 2-, 10-, 50-, and 100-year events following development is not greater than predevelopment conditions.
 - e) In conformance with National Pollution Discharge Elimination System (NPDES) requirements, prohibit grading and excavation unless it can be demonstrated that such activities will not result in significant soil erosion, silting of lower slopes or waterways, slide damage, flooding problems, or damage to wildlife and fishery habitats.
 - f) Adopt development standards, in conformance with NPDES Phase II requirements, for post-construction storm water control.
 - g) Address potential soil erosion by maintaining sections of the County Code that require all construction-related activities to have protective measures in place or installed by the grading deadlines established in the Conservation Regulations. In addition, the County shall ensure enforceable fines are levied upon code violators and shall require violators to perform all necessary remediation activities.
 - h) Require replanting and/or restoration of riparian vegetation to the extent feasible as part of any discretionary permit or erosion control plan approved by the County, understanding that replanting or restoration that enhances the potential for Pierce's Disease or other vectors is considered infeasible.
 - i) Encourage management of reservoir outflows (bypass flows) to maintain fish life and riparian (streamside) vegetation. j) Encourage minimal use of chemical treatment of reservoirs to prevent undue damage to fish and wildlife resources.
 - j) Prohibit new septic systems in areas where sewage treatment and disposal systems are available and encourage new sewage treatment and disposal systems in urbanized areas where there is high groundwater recharge potential and existing concentrations of septic systems.

- ⊙ **Policy CON-60.5:** All aspects of landscaping from the selection of plants to soil preparation and the installation of irrigation systems should be designed to reduce water demand,

retain runoff, decrease flooding, and recharge groundwater.

- © **Policy CON-65:** The County shall support efforts to reduce and offset GHG emissions and strive to maintain and enhance the County's current level of carbon sequestration functions through the following measures:
- a) Study the County's natural, agricultural, and urban ecosystems to determine their value as carbon sequestrators and how they may potentially increase.
 - b) Preserve and enhance the values of Napa County's plant life as carbon sequestration systems to recycle greenhouse gases.
 - c) Perpetuate policies in support of urban-centered growth and agricultural preservation preventing sprawl.
 - d) Perpetuate policies in support of alternative modes of transportation, including transit, paratransit, walking, and biking.
 - e) Consider GHG emissions in the review of discretionary projects. Consideration may include an inventory of GHG emissions produced by the traffic expected to be generated by the project, any changes in carbon sequestration capacities caused by the project, and anticipated fuel needs generated by building heating, cooling, lighting systems, manufacturing, or commercial activities on the premises. Projects shall consider methods to reduce GHG emissions and incorporate permanent and verifiable emission offsets.
 - f) Establish partnerships with experts, trade associations, non-governmental associations, and community and business leaders to support and participate in programs related to global climate change.

Analysis:

The Ordinance creates new requirements that limit the intensity of earth-moving activities to site-specific constraints and the land's natural suitability. It also further minimizes conflicts with the natural environment by providing greater tree protection and mitigation standards, as well as setbacks from water features. The prohibition of development on slopes of 30% or more, and the setbacks from streams, wetlands, and reservoirs will all further enhance protection of the County's biodiversity, including habitat for special status and sensitive species. Specifically, the protection of fishery habitats would be improved by the Ordinance, which would further retain riparian vegetation and establish buffers for Class 3 equivalent streams; would reduce the amount of sediment going into waterways; and would reduce the potential for bank failure from nearby earth-moving. The increase from 2:1 to 3:1 mitigation for the removal of trees will ensure that land is protected for greenbelts, forest, recreation, flood control, adequate water supply, air quality improvement, habitat for fish, wildlife and wildlife movement, native vegetation, and natural beauty. The extension of tree canopy retention throughout the unincorporated area will not only provide additional protection for biodiversity and critical habitat, as well as wildlife movement corridors, but will also help to sequester carbon and

reduce the greenhouse gases that affect climate change, and lead to a more sustainable environment.

The Ordinance implements the need to preserve watershed open space, which is critical to the support of agriculture and its preservation. By increasing the protection for tree canopy and riparian areas, the Ordinance will ensure that existing significant vegetation is retained and integrated into all projects, which will reduce erosion and retain wildlife habitat. Similarly, the Ordinance requires the retention of at least 40% of shrub land throughout the unincorporated area, which will protect and preserve rangeland.

Implementation of the County's Open Space policies will be furthered by the Ordinance, as it allows applicants to mitigate for tree removal either on-site or off-site where there is similar quantity and quality habitat. Consistent with the General Plan, preference for mitigation in the Ordinance is given to on-site replacement.

By requiring that 70% of tree canopy be retained on all parcels in the unincorporated area, the Ordinance will maintain forests for their economic and beneficial use.

Numerous provisions of the Ordinance will improve water retention and quality, by prohibiting development on steep slopes, requiring all earth-moving to comply with the Conservation Regulations (except where exempted), and by establishing new setbacks for streams, wetlands, and municipal reservoirs. These measures will enhance the benefits from headwater channels and improve the quality of downstream watershed resources. Continued implementation of the NPDES and SWPPP programs for new earth-moving activities will contribute towards the County's efforts to comply with current TMDL requirements.

The Ordinance includes requirements to limit structures and new development in environmentally sensitive areas, including near streams, wetlands, and reservoirs, as well as physically hazardous areas such as floodplains, steep slopes, and geologically hazardous areas.

Conclusion: Consistent.

F. Economic Development:

The Economic Development (E) Element of the General states that, "The County's role in economic development has historically been focused on maintaining agricultural land uses, primarily through the Agricultural Preserve and voter-approved Measure J (which serves to limit conversion of agricultural land to other uses)... This Economic Development Element is interrelated with the other Elements that comprise this General Plan. This Element's policies recognize the need to implement land use, circulation, energy, and other policies to encourage and enhance a strong economy and a high quality of life." (Page E-2). See the discussion under these respective element sections below.

Goal E-1: Maintain and enhance the economic viability of agriculture.

Policy E-1: The County's economic development will focus on ensuring the continued viability of agriculture in Napa County.

Analysis:

The Ordinance largely codifies many of the County's past and existing practices and implementation under CEQA. New vineyard development and vineyard expansion has continued in recent years while these practices and implementation have been in effect. As such, the Ordinance will maintain allowing for agriculture that is economic viable while providing additional environmental benefits.

Conclusion: Consistent.

G. The Safety Element:

The Safety (SAF) Element of the General states that, "At the same time that these policies and actions are implemented, the County recognizes that those features which help contribute to Napa County's beauty and wine industry—the steep mountains, the volcanic soils, the many rivers and streams, the forest-covered slopes—are themselves reminders of the ongoing potential for seismic activity, flooding, and fire. This Element therefore seeks to take a reasonable approach, making those improvements necessary to reduce hazards while recognizing that some hazards will remain despite the best efforts of the County and other agencies." (Page SAF-1). See the discussion under these respective element sections below.

- ⊙ **Goal SAF-5:** To protect residences and businesses from hazards caused by human activities.
- ⊙ **Policy SAF-9:** As part of the review and approval of development and public works projects, planting of vegetation on unstable slopes shall be incorporated into project designs when this technique will protect structures at lower elevations and minimize the potential for erosion or landslides. Native plants should be considered for this purpose, since they can reduce the need for supplemental watering which can promote earth movement.
- ⊙ **Policy SAF-10:** No extensive grading shall be permitted on slopes over 15 percent where landslides or other geologic hazards are present unless the hazard(s) are eliminated or reduced to a safe level.

- ⊙ **Policy SAF-17:** The County supports the use of prescribed fuel management programs, including prescribed burns and brush clearing, for managing fire hazardous areas; to reduce wildfire hazard, improve watershed capabilities, promote wildlife habitat diversification, and improve grazing.
- ⊙ **Policy SAF-22:** While the County supports preservation and maintenance of existing fire trails, professional practices have shifted to emphasize defensible space and community fire breaks

Analysis:

By prohibiting development on steep slopes and away from streams and wetlands, the Ordinance protects residences and businesses from potential erosion and flooding.

An Erosion Control Plan is required in the Ordinance for any development on over 5% slopes, including vegetation where appropriate.

The Ordinance prohibits development (with exceptions) on slopes of more than 30%, providing additional protection from landslides or geologic hazards.



The creation and/or maintenance of firebreaks or implementation of fire management strategies required by, and completed under the direction of the California Department of Forestry and Fire Protection, are exempt from the requirements of the Ordinance.

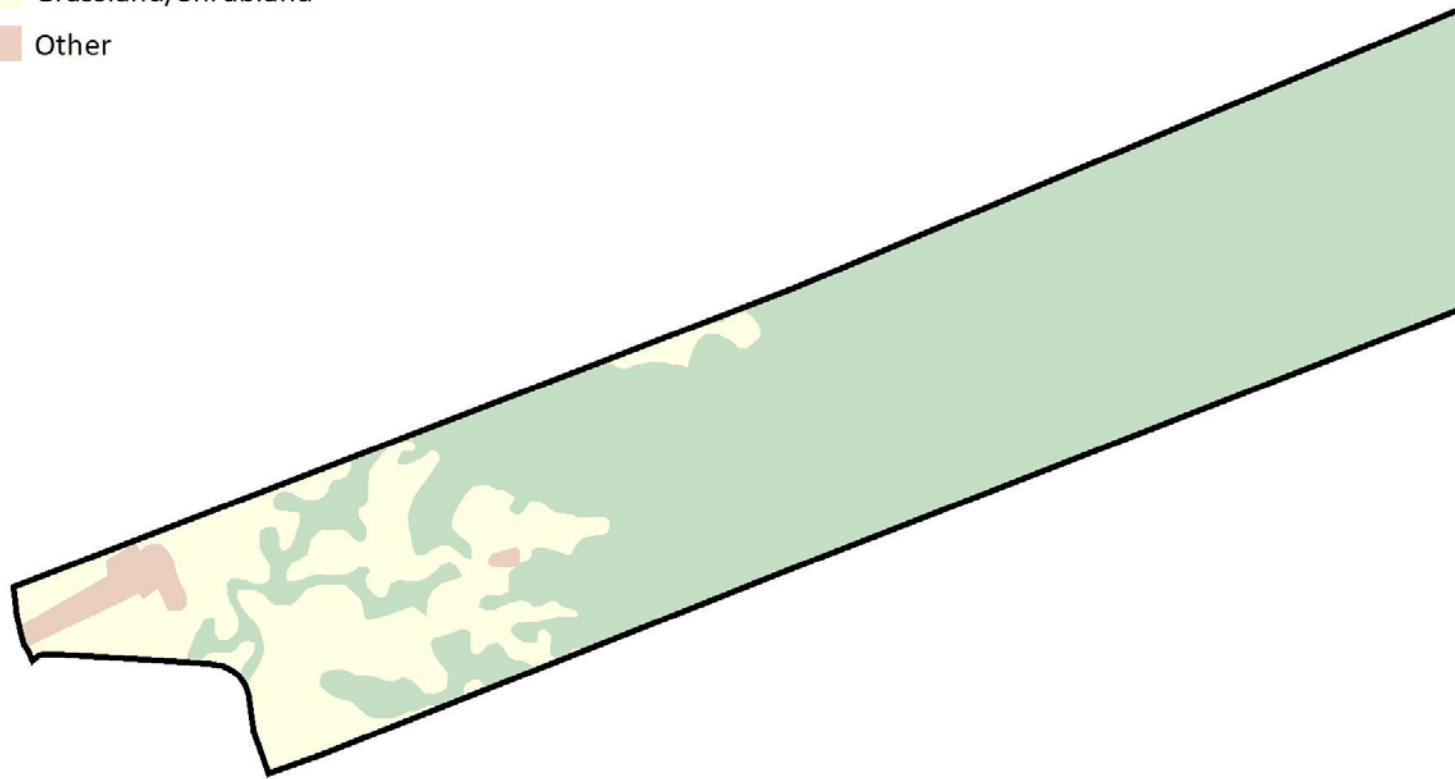
Conclusion: Consistent.

“B”

Updated Graphics

Landcover Category, parcel-wide




-  Forested
-  Grassland/Shrubland
-  Other

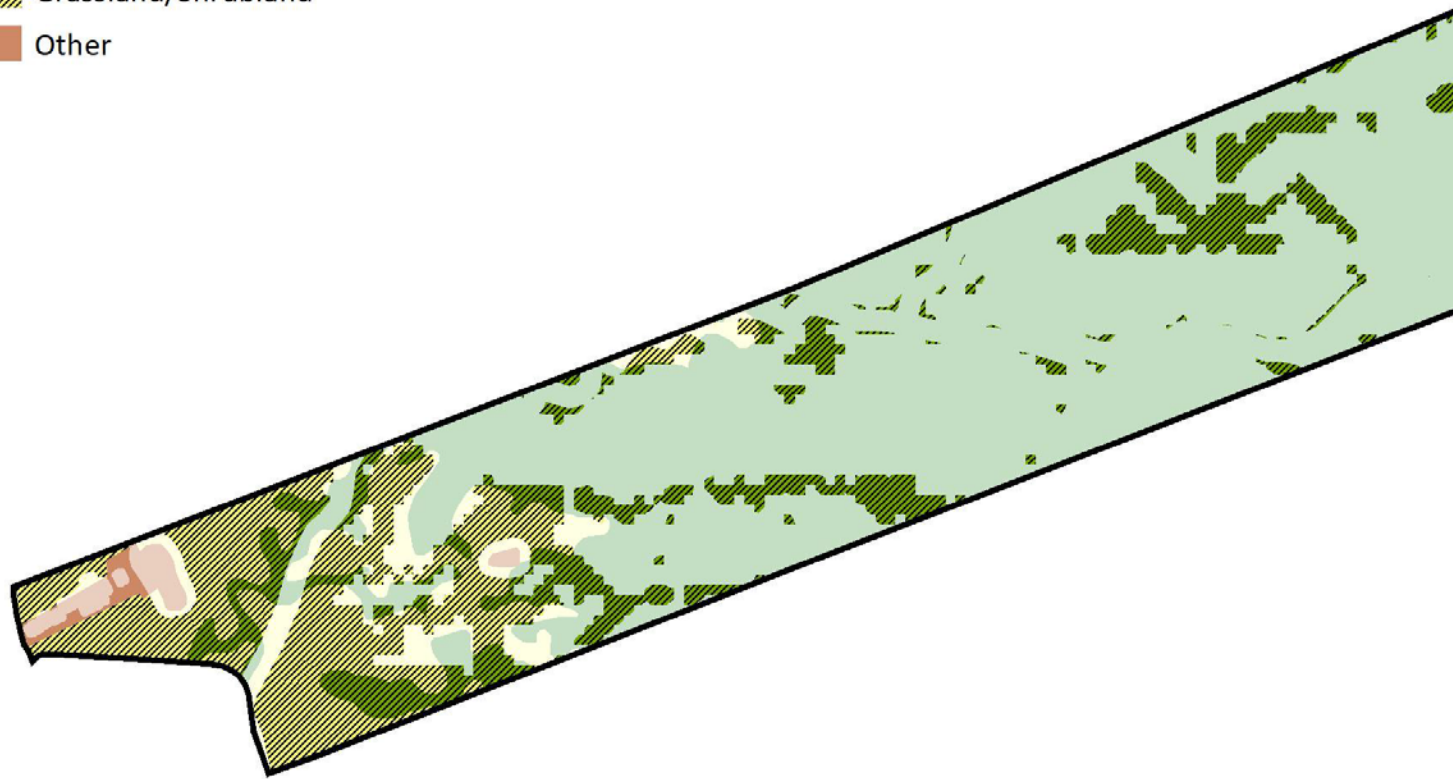


PARCEL SIZE:	220 ac
TOTAL FORESTED:	172 ac (78%)
TOTAL GRASS/SHRUBLAND:	44 ac (20%)

EXISTING CONDITIONS

Landcover Category Within PPS


-  Forested
-  Grassland/Shrubland
-  Other



TOTAL PPS:	68 ac
FORESTED PPS:	31 ac (18%)
GRASS/SHRUBLAND PPS:	34 ac (77%)

ALL POTENTIALLY PLANTABLE ACRES

 Hypothetical Development Areas (28.6 ac)

 All Potentially Plantable Areas

Vegetation Lost to Hypothetical Development Areas

 Forested


 Grassland/Shrubland

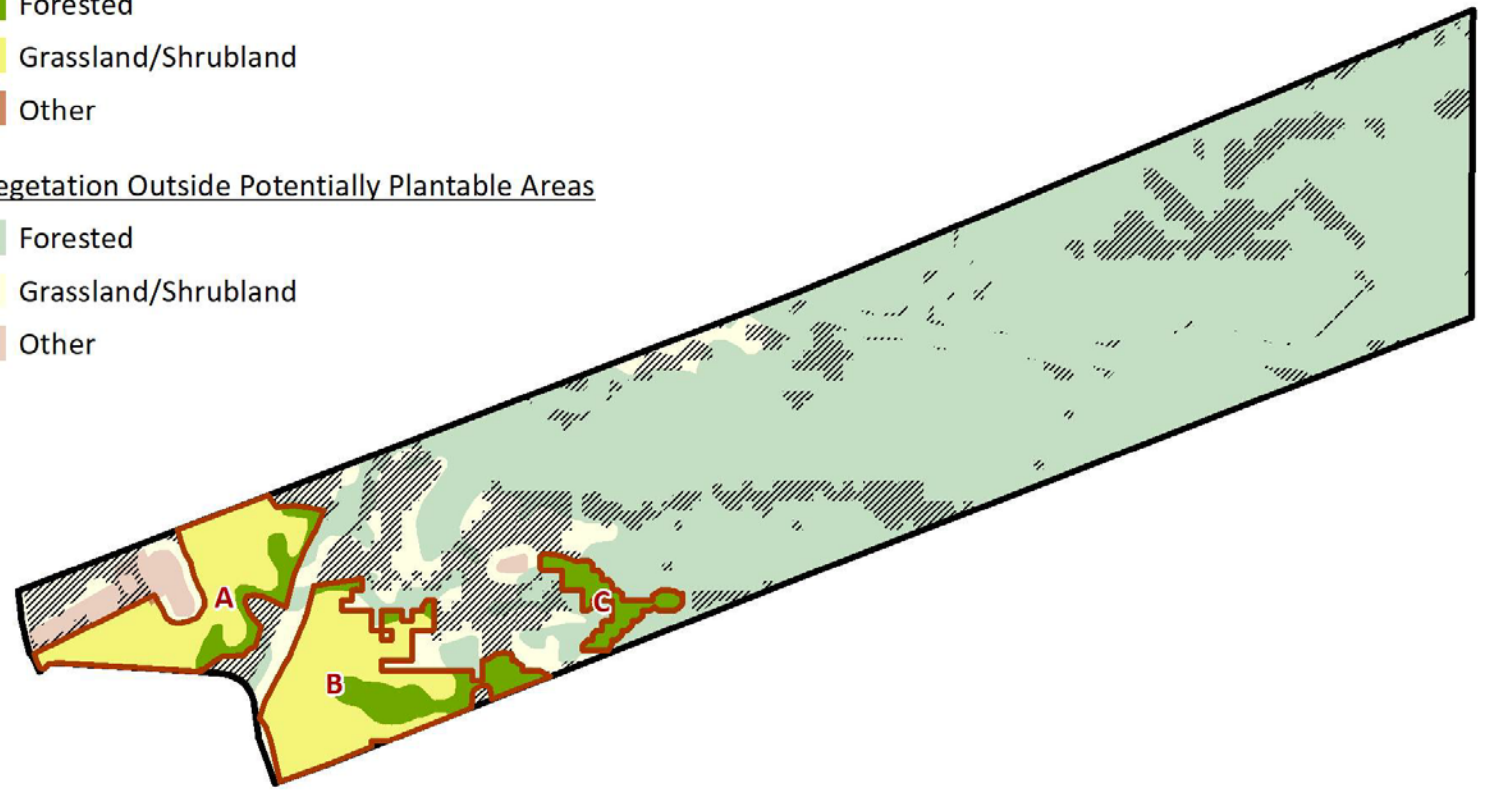
 Other

All Vegetation Outside Potentially Plantable Areas

 Forested

 Grassland/Shrubland


 Other



Development Area	Forested	Grassland/ Shrubland	Other	<i>Development Totals</i>
Area A	2.3	9.6	0.1	12.0
Area B	4.0	10.3		14.3
Area C	2.3			2.3
Vegetation Totals	8.6	19.9	0.1	28.6


VEG RETENTION @ 60-40

 Hypothetical Development Areas (28.6 ac)

 All Potentially Plantable Areas

Vegetation Lost to Hypothetical Development Areas


 Forested

 Grassland/Shrubland

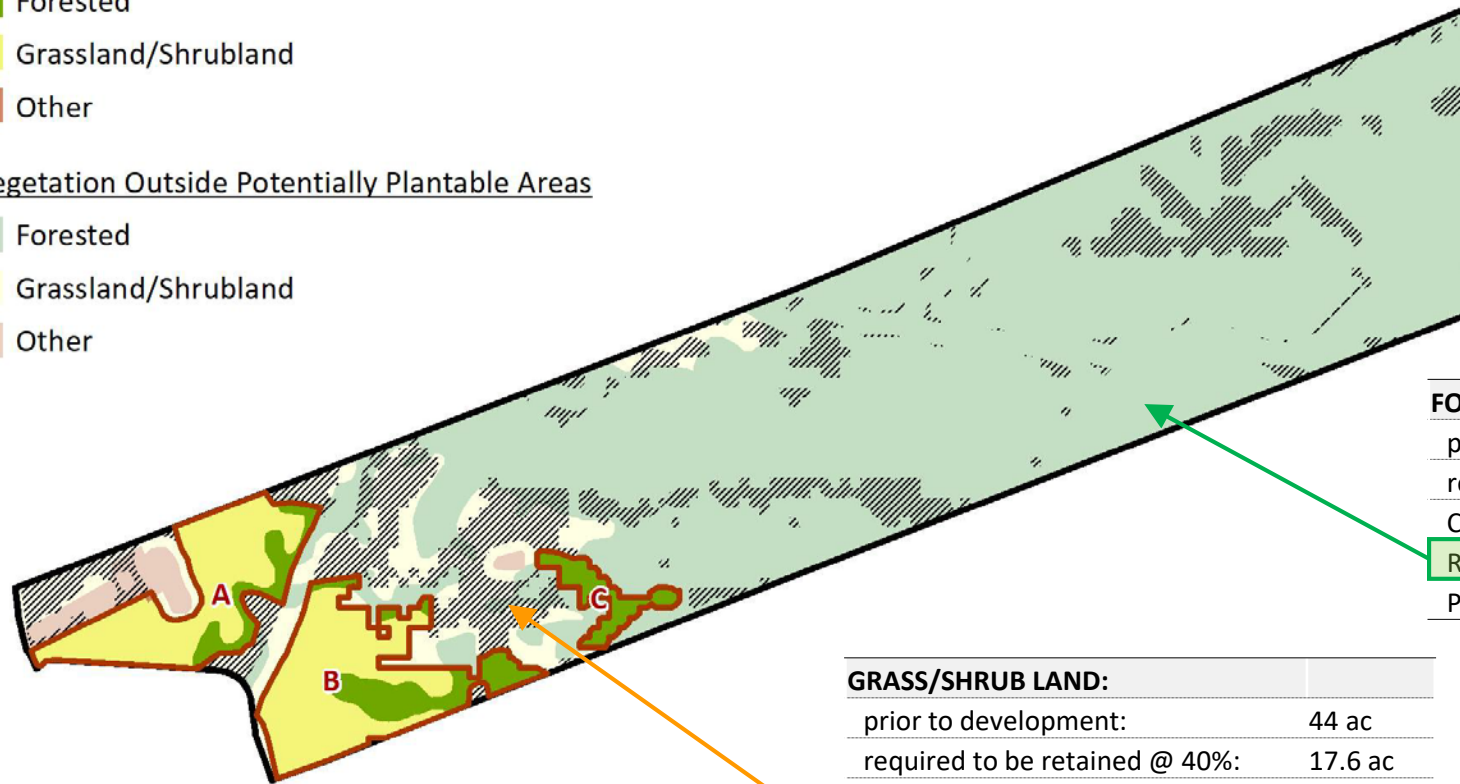
 Other

All Vegetation Outside Potentially Plantable Areas

 Forested

 Grassland/Shrubland

 Other



FORESTED LAND:

prior to development:	172 ac
required to be retained @ 60%:	103.2 ac
Cleared due to development	8.6 ac
Retained post-development:	163.4 ac
Post-project retention rate:	95%


GRASS/SHRUB LAND:

prior to development:	44 ac
required to be retained @ 40%:	17.6 ac
Cleared due to development	19.9 ac
Retained post-development:	24.1 ac
Post-project retention rate:	55%

Development Area	Forested	Grassland/ Shrubland	Other	Development Totals
Area A	2.3	9.6	0.1	12.0
Area B	4.0	10.3		14.3
Area C	2.3			2.3
Vegetation Totals	8.6	19.9	0.1	28.6


VEG RETENTION @ 60-40

 Hypothetical Development Areas (28.6 ac)

 All Potentially Plantable Areas

Vegetation Lost to Hypothetical Development Areas

 Forested

 Grassland/Shrubland


 Other

All Vegetation Outside Potentially Plantable Areas

 Forested

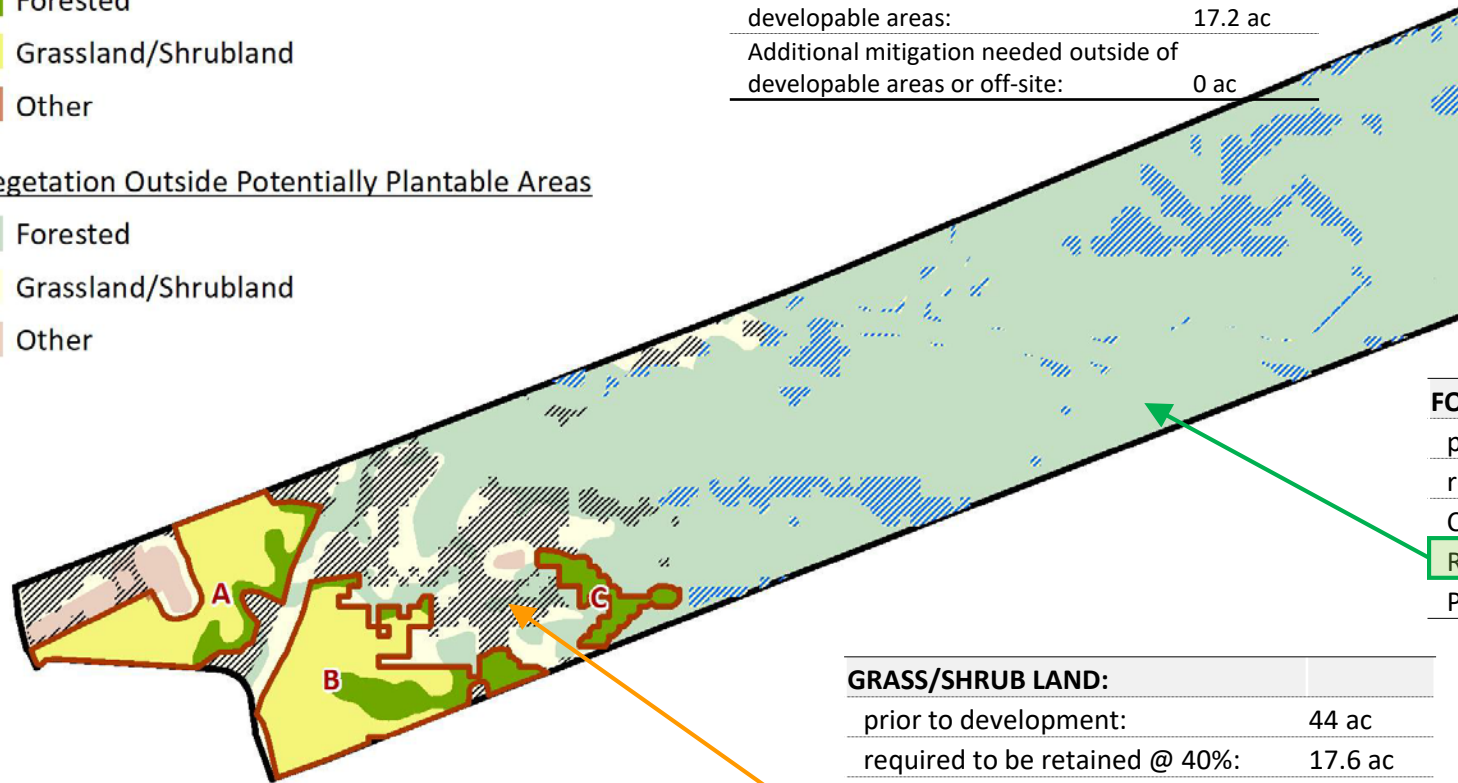
 Grassland/Shrubland

 Other

 Forested Areas Retained via 2:1 Mitigation

2:1 MITIGATION REQUIREMENT:

Forested lands developed:	8.6 ac
Forested lands required to be protected via 2:1 mitigation:	17.2 ac
Forested lands protected within developable areas:	17.2 ac
Additional mitigation needed outside of developable areas or off-site:	0 ac



FORESTED LAND:

prior to development:	172 ac
required to be retained @ 60%:	103.2 ac
Cleared due to development	8.6 ac
Retained post-development:	163.4 ac
Post-project retention rate:	95%


GRASS/SHRUB LAND:

prior to development:	44 ac
required to be retained @ 40%:	17.6 ac
Cleared due to development	19.9 ac
Retained post-development:	24.1 ac
Post-project retention rate:	55%

Development Area	Forested	Grassland/ Shrubland	Other	Development Totals
Area A	2.3	9.6	0.1	12.0
Area B	4.0	10.3		14.3
Area C	2.3			2.3
Vegetation Totals	8.6	19.9	0.1	28.6

VEG RETENTION @ 60-40

 Hypothetical Development Areas (28.6 ac)

 All Potentially Plantable Areas

Vegetation Lost to Hypothetical Development Areas


 Forested

 Grassland/Shrubland


 Other

All Vegetation Outside Potentially Plantable Areas

 Forested

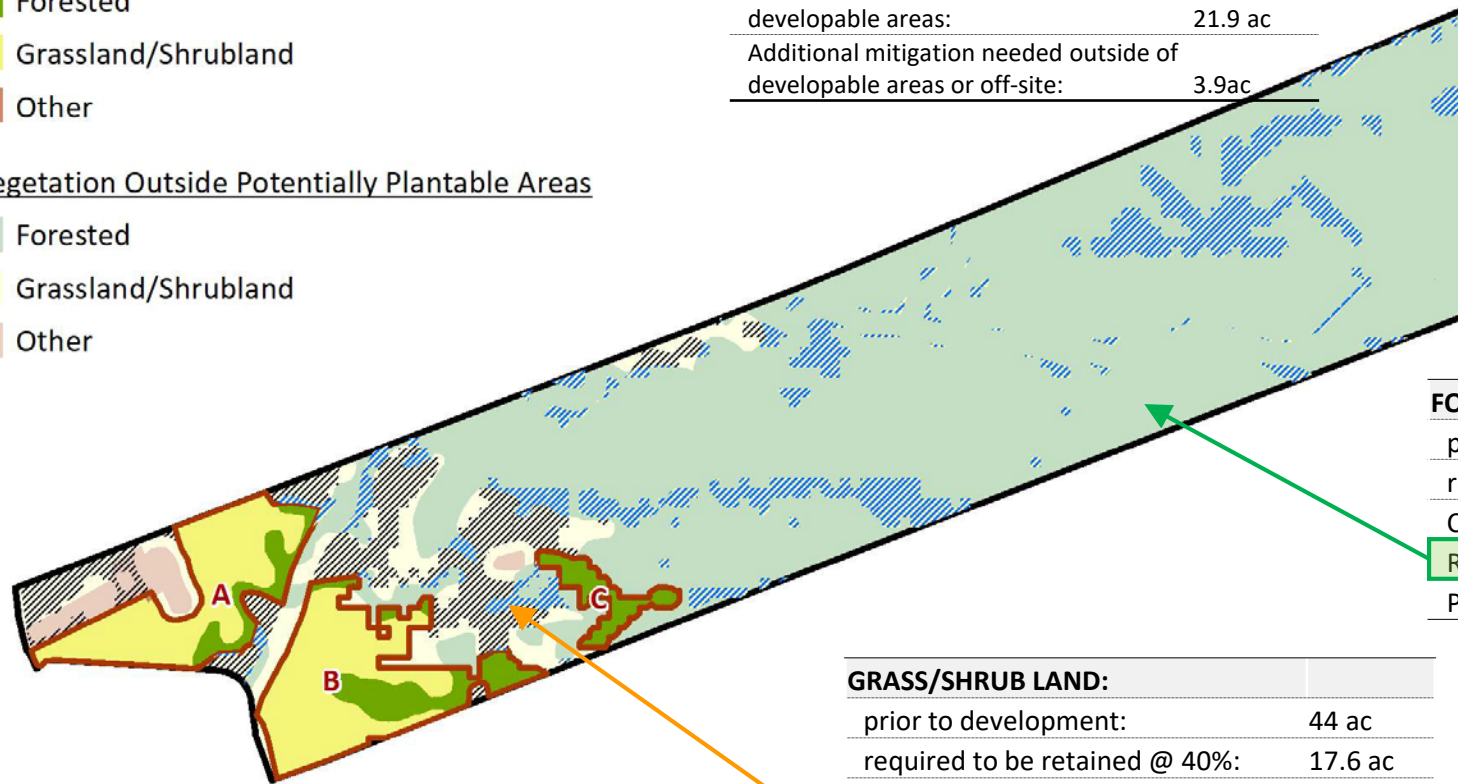
 Grassland/Shrubland

 Other

 Forested Areas Retained via 3:1 Mitigation

3:1 MITIGATION REQUIREMENT:

Forested lands developed:	8.6 ac
Forested lands required to be protected via 3:1 mitigation:	25.8 ac
Forested lands protected within developable areas:	21.9 ac
Additional mitigation needed outside of developable areas or off-site:	3.9ac



FORESTED LAND:

prior to development:	172 ac
required to be retained @ 70%:	120.4 ac
Cleared due to development	8.6 ac
Retained post-development:	163.4 ac
Post-project retention rate:	95%

GRASS/SHRUB LAND:

prior to development:	44 ac
required to be retained @ 40%:	17.6 ac
Cleared due to development	19.9 ac
Retained post-development:	24.1 ac
Post-project retention rate:	55%

Development Area	Forested	Grassland/ Shrubland	Other	Development Totals
Area A	2.3	9.6	0.1	12.0
Area B	4.0	10.3		14.3
Area C	2.3			2.3
Vegetation Totals	8.6	19.9	0.1	28.6

VEG RETENTION @ 70-40

“C”

Public Comments
Received After Packet
2/15/19 – 2/20/19

From: Jody Frease Meijer <jody.frease@gmail.com>
Sent: Monday, February 18, 2019 9:27 AM
To: Morrison, David <David.Morrison@countyofnapa.org>
Cc: Andreas Meijer <meijer.andreas@gmail.com>; joellegpc@gmail.com; Whitmer, David <Dave.Whitmer@countyofnapa.org>; anne.cottrell@lucene.com; Mazotti, Andrew <Andrew.Mazotti@countyofnapa.org>; jerigillpc@outlook.com; Wagenknecht, Brad <BRAD.WAGENKNECHT@countyofnapa.org>; Gregory, Ryan <Ryan.Gregory@countyofnapa.org>; Dillon, Diane <Diane.DILLON@countyofnapa.org>; Pedroza, Alfredo <Alfredo.Pedroza@countyofnapa.org>; Ramos, Belia <Belia.Ramos@countyofnapa.org>
Subject: Comments on Napa County Water Quality and Tree Protection Zoning Ordinance

Dear Mr. Morrison,

Please find below our comments on the proposed ordinance in advance of the February 20th, 2019 public meeting.

We are owners of a 17 acre Ag Watershed property, with an ECP currently under review by Napa County for a small vineyard. We are writing to express our concerns with the proposed Watershed Protection Ordinance, and particularly with some of the harsher recommendations from County staff.

First: any purchaser of land in the Ag Watershed is instructed that "the best and highest use" of the land is for agriculture. Land is assessed accordingly for property tax purposes, as it is considered valuable agricultural land. For many owners of hillside properties, the restrictions under consideration would make most agriculture--not just vineyards--difficult or impossible. It's not easy now, under current rules. In our own case, we nominally have 5-6 acres of growable land. By the time we worked our way through the ECP process, we're down to 2.5 gross, and about 1.9 net plantable acres. We believe that with the proposed rules we would be down to nearly none, or so little as to make it financially unfeasible to continue. And we would have to abide by the same rules for any crop. We would be the owners of "agricultural land" on which agriculture is forbidden. Who will compensate smaller landowners like us for loss of market value of our properties? Will property tax assessments be adjusted accordingly?

Second: non-agricultural use of Ag Watershed land is also highly restricted, but does allow for construction of primary and secondary homes. County staff's recommendations would apply 30% slope rules to residential development as well as agriculture. We're lucky in that we already have a primary dwelling on the property. We have neighbors who do not. And our ability to add a second dwelling as allowed under current AW zoning rules would probably disappear. Building on hillside sites is already highly restricted and prohibitively expensive for many. Now it would be impossible in many cases. Again: who compensates landowners for loss in property value?

Historically, landowners who purchased their property under one set of rules have been grandfathered in when land use regulations change. What makes this situation so different? What emergency are we facing so dire that it requires destroying the land value of what is for many the biggest investment in their lives?

Bledsoe, Teresa

From: Morrison, David
Sent: Tuesday, February 19, 2019 12:12 PM
To: Fuller, Lashun; Bledsoe, Teresa; Thepkaisone, Cesselea
Cc: Bordona, Brian; Anderson, Laura
Subject: FW: NAPA COUNTY WATER QUALITY AND TREE PROTECTION ZONING ORDINANCE AND TEXT AMENDMENT
Attachments: CaliforniaOaksLetterNapaOrdinance2_19_19.pdf

From: Oak Staff <oakstaff@californiaoaks.org>
Sent: Tuesday, February 19, 2019 12:05 PM
To: Morrison, David <David.Morrison@countyofnapa.org>
Cc: Janet Cobb <jcobb@californiawildlifefoundation.org>
Subject: NAPA COUNTY WATER QUALITY AND TREE PROTECTION ZONING ORDINANCE AND TEXT AMENDMENT

Dear Mr. Morrison,

Please find attached a letter from the California Oaks program of California Wildlife Foundation for tomorrow's Planning Commission hearing. Please acknowledge receipt of this letter.

Thank you so much,

Angela

Angela Moskow
California Oaks Information Network Manager
California Wildlife Foundation/California Oaks
428 13th Street, Suite 10A
Oakland, CA 94612
www.californiaoaks.org
Office: (510) 763-0282
Mobile: (510) 610-4685

Bledsoe, Teresa

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To: Fuller, Lashun; Bledsoe, Teresa; Thepkaisone, Cesselea
Cc: Bordona, Brian; Anderson, Laura
Subject: FW: NAPA COUNTY WATER QUALITY AND TREE PROTECTION ZONING ORDINANCE AND TEXT AMENDMENT
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www.californiaoaks.org
Office: (510) 763-0282
Mobile: (510) 610-4685



February 19, 2019

David Morrison, Napa County Planning, Building and Environmental Services Director
Napa County Planning, Building, and Environmental Services Department
1195 Third Street, Suite 210
Napa, California 94559

Transmitted via email: David.Morrison@countyofnapa.org

RE: NAPA COUNTY WATER QUALITY AND TREE PROTECTION ZONING
ORDINANCE AND TEXT AMENDMENT

Dear Mr. Morrison:

The California Oaks program of California Wildlife Foundation works to conserve oak ecosystems because of their critical role in sequestering carbon, maintaining healthy watersheds, providing wildlife habitat, and sustaining cultural values. We commend the county for drafting an ordinance to protect native trees. This letter's comments are restricted to the provisions of the ordinance that pertain to oak (members of *Quercus* genus) woodlands, highlighting problematic sections.

ECOSYSTEM CONSIDERATIONS

Vegetation retention requirements should include ecosystem considerations.

Section 2 of the proposed amendments to Section 18.108.020 (General provisions) of the Conservation Regulations of Napa County Code adds *C. Vegetation Retention Requirements* (page 9). California Oaks recommends that the section be expanded to include:

- Enhanced protections for valley and blue oaks.
- The prioritization of protection, maintenance, restoration, and monitoring of large blocks of savanna, woodland, and forests over maintenance, restoration, and enhancement of smaller, more isolated habitat patches.
- Avoidance of removal of actively used granary trees, raptor roosting, or nesting trees.

MITIGATION

Mitigation on slopes above thirty percent is not acceptable.

Section 2 of the proposed amendments to Section 18.108.020 (General provisions) of Chapter 18.108 (Conservation Regulations) adds *D. Vegetation Removal Mitigation*, which states (page 9): *The removal of any vegetation canopy cover shall be mitigated at a minimum ration of 3:1.* Among the locations for replacement or preservation, D. 2 on page 9 states that mitigation, through on-site preservation or replacement, may, in certain circumstances, *...occur on slopes greater than thirty one percent and up to fifty percent.* This provision should be removed. Mitigation measures must substantially lessen the environmental impacts of a project. The provision that would allow mitigation to take place on a slope that is not subject to development does not adhere to the requirements of the California Environmental Quality Act (CEQA).

Mitigation for Greenhouse gas impacts of tree removal is deficient.

CEQA’s sole Greenhouse gas (GHG) focus is “the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions.” Net present value of GHG emissions forms the foundation of the state’s greenhouse reduction objectives, as well as the California Forest Protocol preservation standards. Every ton of carbon dioxide (CO₂) released into the atmosphere by oak woodland or forest conversion represents a measurable potential adverse environmental effect, which is covered by CEQA. Thus California requires the analysis and mitigation of greenhouse gas emissions associated with proposed oak woodland or forest conversions.

Project mitigation that is based on the preservation (“avoided conversion”) of existing natural lands does not adequately mitigate GHG emissions of natural lands conversion. Existing trees, understory, and soil conserved by the mitigation, do not, suddenly, upon the protections afforded by their conservation, sequester more carbon to mitigate impacted biomass GHG emission effects of the conversion. Further, the logic of equating an acorn or sapling planted to above-and belowground carbon sequestration of a tree that has been growing for many years is even more flawed. A mitigation oak tree planted today will not begin to sequester adequate carbon for many years.

Additional recommendations for mitigation.

It is essential that the measures for monitoring the success of mitigation be clearly stated and that strong enforcement also be delineated. We recommend that the following provisions, which are from Santa Barbara’s deciduous oak protection ordinance, be incorporated into Napa’s proposed regulations:

- A 15:1 mitigation ratio by replacement planting, or protection of naturally occurring oak trees between six (6) inches and six (6) feet tall on the lot.
- Naturally occurring valley and blue oak seedlings/saplings, growing on the lot and between six (6) inches and six (6) feet in height that are successfully protected and nurtured may be counted as replacement (mitigation) trees under the Program. (We suggest that this provision be extended to all oaks.)
- Replacement deciduous oak trees that are planted must come from nursery stock grown from locally-sourced acorns, or use acorns gathered locally, preferably from the same watershed in which they are planted. (We suggest that this provision be extended to all oaks.)
- If planting is done using acorns, the ratio of acorns to oak trees removed shall be a minimum of forty-five (45) acorns for every protected valley oak tree removed. Up to three (3) acorns may be planted in the same hole.
- Replacement deciduous oak trees shall be established in a location suitable for their growth and survival as determined by a qualified professional. (We suggest that this provision be extended to all oaks.)
- Valley oaks shall replace valley oaks removed and blue oaks shall replace blue oaks removed.

DEFINITION OF CANOPY COVER THAT WILL BE PROTECTED UNDER THE PROPOSED ORDINANCE

The draft ordinance states on page 7 that its scope includes oak woodlands:

This ordinance provides enhanced protection for these areas by preserving riparian habitat along stream corridors and wetlands and by protecting forest,

oak woodland, tree canopy, and shrubland; and

WHEREAS, this ordinance will protect forests, oak woodlands, and other native trees by requiring the permanent preservation or replacement of lost trees or preservation of comparable habitat at a 3:1 ratio and by establishing a framework for how preservation or replacement will be implemented so as to maximize environmental protections and benefits; and ...

The text from page 17 of the proposed changes to Napa County's Conservation Regulations, Section 6. Chapter 18.108.030 (Definitions), County Code speaks about canopy protections for contiguous forests:

“Vegetation canopy cover” means the crown area of a stand of trees (i.e., upper-story vegetation) in a natural stand of vegetation. For the purposes of this chapter, canopy cover is the collective cover of a grouping of trees **viewed from an aerial photograph of the latest edition on file with the department**, where the tree stand is continuous. Single trees are not considered canopy cover.

The proposed changes, above, address ecosystems in which there is a closed canopy, yet do not address oak woodlands, which are defined in state law (AB 242, Thomson, 2001) as follows:

“Oak” means any species in the genus *Quercus*.

“Oak woodlands” means an oak stand with a greater than 10 percent canopy cover or that may have historically supported greater than 10 percent canopy cover.

We are concerned that as this is written that oak woodlands will not receive protections under the proposed regulatory changes, only denser stands of trees. We also note that (7) on page 5 of the draft ordinance, states: “maintain the existing definition of tree canopy.” If the county’s intentions are to extend canopy protections to oak woodlands the current language in the proposed revisions is inadequate. We are available to assist the county in making the necessary revisions.

PROTECTIONS FOR NON-NATIVE TREES

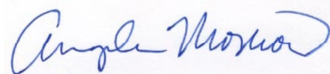
Page 7 of the ordinance states it will protect forests, oak woodlands, and other native trees, yet the suggested additions to County Code do not specify that the protections are specific to native trees. Given the ecological threats posed by non-native trees, we recommend the addition of language to reflect the exclusion of protections for non-native trees.

Thank you for your consideration of our comments.

Sincerely,



Janet Cobb
Executive Officer
California Wildlife Foundation



Angela Moskow
Manager, California Oaks Coalition

Third: the County recommends that any new regulations be applied immediately even to existing ECP applications that are under completeness review. Anyone who is in this situation has already spent tens of thousands of dollars just to be able to submit their ECP for bio and anthropological surveys, soils engineering and vineyard design. It can take the County months to review and respond to applications. We ourselves waited 4 months for County staff to respond with information needed by our engineer to prepare a completeness response. It would be exceptionally unfair to penalize those who followed every rule by forcing them to start over.

Again, what is the dire emergency here that would require this? Are current regulations really so dangerously inadequate? If so, shouldn't any hillside development completed under old rules be required to adapt to the new standards, including tearing out vineyards if necessary?

As a counterpoint, we attended a meeting with Napa County staff a few months ago in support of a neighbor who is trying to get a driveway design approved for his hillside property. In the meeting, staff mentioned that new road standards would soon be published, but explicitly assured our neighbor that he would not have to re-do his design to meet them. Why should a different rule be applied for this situation?

In the meantime, we sincerely hope that that County staff will diligently and speedily continue the review process while these regulations are under discussion. Given the staff recommendation, isn't there a perverse incentive here to delay review under the assumption that rules will change anyway?

As a final note: contrary to some of the more overblown rhetoric of Measure C proponents, those of us with Ag Watershed properties aren't all big corporations intent on raping the land. Many of us are small landowners who want to be able to enjoy our properties under the rules we agreed to when purchasing them. Again, sensible regulation makes sense. We'd submit that we already have it--and then some.

We understand that there is a desire to mend fences after the divisive battle over Measure C. What's perturbing is that this seems to be taking the form of simply implementing Measure C to great extent, against the expressed will of the voters. We sincerely hope that Napa County is responding to a documented environmental and scientific problem, and not a political one.

Respectfully submitted,
Jody and Andreas Meijer

-----Original Message-----

From: Judy DONOVAN <donovanhunt@sbcglobal.net>
Sent: Monday, February 18, 2019 7:29 AM
To: Morrison, David <David.Morrison@countyofnapa.org>
Subject: Watershed

David,

I do not want to see 30% of our forests cut. The repercussions for our watershed and the coming difficulties due to climate change make this an unsound decision. We must think long term for our environment. Do not support this idea.

Sincerely,
Judy Donovan

Sent from my iPhone

-----Original Message-----

From: Kit Long <kittylong00@gmail.com>
Sent: Sunday, February 17, 2019 1:27 PM
To: Jeri Hansen <JeriGillPC@outlook.com>; Joelle Gallagher <joellegPC@gmail.com>; Whitmer, David <Dave.Whitmer@countyofnapa.org>; Mazotti, Andrew <Andrew.Mazotti@countyofnapa.org>; Morrison, David <David.Morrison@countyofnapa.org>; Anne Cottrell <anne.l.cottrell@gmail.com>
Subject: Comment on Watershed Protections/Climate Change

I am convinced that the science behind forest preservation is clear and compelling enough to insist that our priorities now are to remove as few oak trees as possible. Therefore, the 70% figure is inadequate to protect our future. We are in a climate emergency and every option must be maximized. Preserving systems that reduce CO2 through both sequestration and avoidance of additional climate pollutant release from decomposition/burning is one of the least expensive methods of addressing climate change, which will continue to cost this County millions of dollars. I ask you to make this sound economic choice, protecting the health of our water, residents and wildlife as well.

Please do not let an effort to compromise on either removal of trees, or mitigation of replanting in areas already protected on slopes of greater than 30%, sway your thinking. It is time to stop fussing with details that threaten our life in the future. Though Napa's actions are minuscule considering the scale of global warming, we must do what we can in our County, and show that we are willing to act boldly. With recent international and national reports confirming that we have only a decade to avoid the warming that will bring increasing catastrophes, small steps immediately are the only sane response.

I want to see this beautiful valley become a "climate friendly" tourist destination. I believe that we can attract and encourage and educate our visitors while they enjoy our wine. People will be looking for ways to spend vacations that contribute to solving our crisis. With your help in protecting our woodlands, we can use our prominence on the global stage to act on solutions that bring hope as well as dollars to our County.

Kit Long

From: gretchen@springmountaindistrict.org <gretchen@springmountaindistrict.org>
Date: Saturday, Feb 16, 2019, 08:01
To: Valdez, Jose (Louie) <Jose.Valdez@countyofnapa.org>
Subject: Spring Mountain District Association - New Ordinance

Napa County Planning Commission,
RE: Draft Water Quality & Tree Protection Ordinance
Commissioners and Supervisors,

The Spring Mountain District Association represents a group of 34 vineyard owners and wineries who are based in the mountains above St. Helena. We farm our steep hillsides without incident, and welcome visitors to our rugged and beautiful setting.

We feel that the Commission is moving forward with proposed amendments (to the Draft Water Quality & Tree Protection Ordinance) without relying on any kind of fact-based evidence.

We urge you to reconsider enacting any of these proposed amendments. Please don't do this as a sop or urge to satisfy a vocal group of local people. There is no scientific rationale for any of the proposed changes.

Our livelihoods are at stake. We are already enormously restricted in how we can farm and how we can welcome visitors. Please don't threaten the Napa Valley wine industry-----in our case the mountain vineyard farmers.

We welcome you to come walk through our vineyards and tasting rooms, so you can see how unique our settings are---they need to be protected, not threatened by punitive, onerous and unnecessary new regulations.

Sincerely,
Gretchen Brakesman

Gretchen Brakesman
Executive Director – Spring Mountain District Association
Cell : 707.363.7236
gretchen@springmountaindistrict.org

From: Wayne Ryan <Wayneryan@sbcglobal.net>
Date: Monday, Feb 18, 2019, 2:43 PM
To: Morrison, David <David.Morrison@countyofnapa.org>
Subject: Watershed Ordinance

Dave

This proposed ordinance doesn't do enough to protect our oak forests & watersheds. Less tree cutting, larger setbacks from streams-a plan closer to Measure C please!

Wayne Ryan

32 year resident & voter in Napa County

From: Jeff Baier <jeffb@napa.us>
Date: Tuesday, Feb 19, 2019, 4:32 AM
To: Morrison, David <David.Morrison@countyofnapa.org>
Subject: Comments to proposed Watershed Protection Ordinance

Dear Mr. Morrison,

First, please note: At the top of page 16 there is reference to the "Napa County Environmental Resources Mapping System" maps identifying landslide areas. I could not find them on the internet. I think it would be helpful if these landslide maps could be available at the Planning Commission Meeting tomorrow so the public can see if their land is involved.

Comments from a Napa County Land Owner's perspective:

1. 18.108.020 Parts D and E. How would this work for the following example:
10 acre all tree canopy property. Owner removes 1/4 acre of tall tree canopy to build a house, so he must plant 3/4 acre of trees on his property (likely they will die due to shade from remaining tall trees) or on another on property, OR preserve a comparable canopy cover by permanent easement. Such an easement here seems to be an excessive penalty for a person who just wants to build a house. Also, what will the cost of this easement be? Could the County fees be exempted? It would be helpful to mention the cost at the Planning Commission meeting.
2. 18.108.050 Exemption A. Top Page 19, Delete the "not... as a landslide area" wording. I have not seen the referenced maps, but I have seen some maps showing that large areas of Napa Co. are landslide areas. These are especially hilly and mountainous areas where many homes and other structures exist, and have been damaged by fires, and have yet to be rebuilt. I don't think that the maps I have seen are that accurate. The rebuild criteria for the landslide areas should be up to the geotechs and engineers on a case by case basis, and not the Board of Supervisors.
3. 18.108.050 Exemption D. Maintenance of "private" roads is not done under the direction of a "public agency". Make this two sentences by adding a period after "waterbars".
4. 18.108.050 Exemption N, still Reserved?
5. 18.108.050 Exemption V. The use of 125% is a bit confusing. Example for a small 320 sq. ft. burned out old too small garage not in a stream setback area. Is the "rebuild area of disturbance" just the newly disturbed soil due to the building expansion or does it also include that area under the original garage. Which is correct:
 $320 + 125\% \text{ of } 320 = 720 \text{ sq. ft.}$ or
 $320 + 25\% \text{ of } 320 = 400 \text{ sq. ft.}$?

Why not just delete this 125% requirement? I hope to expand to only 600 sq. ft. because of other restraints. In this case the expansion is only 280 sq. ft., which is insignificant compared to the 1 acre allowed in Exemption C, and the 5 acres exempted for 5 acres of agriculture earthmoving per SECTION 17 on page 31.

Also, delete the last sentence only allowing one use. I lost 2 buildings of this size to the fire but because of other rebuild restraints I plan to just rebuild just this one to 600 sq. ft. I know other people who lost several buildings and could be restricted by this requirement.

6. 18.108.060 Para. B. 1.b. for slope determination for "Structure" development. If only a structure is being built and the driveway is in good shape and not to be worked on, why does the slope of the driveway have to be determined per the following B.2 which is for grading? Not everyone can afford what appears to be unnecessary requirements.

7. 18.108.050 para. C. Exempts grading for Landscape structures, but the definition for a landscape structure on page 15 says "...does not require ...grading." This does not seem to make much sense, or it is redundant?

Thank you for the opportunity to review this proposed ordinance. I hope my comments will simplify things for other country dwellers. I always think that people who write these requirements should put themselves in our shoes and think as if the requirements applied to their property also.

Sincerely,

Jeff Baier

Mt. Veeder

707-501-8041 for now. Normally 707-224-4010 landline but a tree in the County's sloping right of way area was up rooted and fell on to a power pole taking down wires and the transformer 10 days ago and AT&T still has not restored our service. Main phone line down.

P.S. Page 3, at top, second sentence is misleading. Measure P really did not pass as 65% of the voters voted "NO", thus overturning Ordinance No. 1221, the Stream Setback Ordinance. I think this should be made more obvious.

From: lauren coodley <lcoodley@hotmail.com>
Date: Tuesday, Feb 19, 2019, 8:48 AM
To: Morrison, David <David.Morrison@countyofnapa.org>
Subject: please share w entire planning commission re nature, climate change, etc

As I understand it, The proposed canopy retention of 70% would permit up to 30% of our hillside forests to be cut, potentially many thousands of acres. Measure C would have stopped oak removal at 795 acres, already an unacceptably high number for many."

Under this ordinance, for every tree cut, 3 seedlings will be planted, or three acres placed in a protective conservation easement for every acre of forest cleared. But this mitigation would be allowed on steeper slopes greater than 30% that are already effectively protected from development. *This defeats the purpose of remediation!* It takes approximately 20 years before an oak tree can significantly sequester carbon. Do we have this time?

I'd like to see this County be a leader in proactively preventing climate change, rather than in the number of alcoholics roving the streets in cars (with no viable and speedy public transit).

Please listen to the citizen activists rather than the vintners whose only motive is profit.

Please share these comments with entire planning comm.

Lauren Coodley
Napa historian and author

Sent from [Mail](#) for Windows 10

From: Mark Anisman <4anisman@gmail.com>
Date: Tuesday, Feb 19, 2019, 8:49 AM
To: Morrison, David <David.Morrison@countyofnapa.org>
Subject: Proposal for hillside forest care

Good morning Mr. Morrison ,

30% of our hillside forests being cut is too much!

Please do not support this new ordinance. The proposed mitigation would be allowed on steeper slopes greater than 30% that are already effectively protected from development. This defeats the purpose of remediation!

Thank you, Mark Anisman

From: Tiffany Yap <TYap@biologicaldiversity.org>

Sent: Tuesday, February 19, 2019 8:55 AM

To: Morrison, David <David.Morrison@countyofnapa.org>

Cc: joellegPC@gmail.com; Whitmer, David <Dave.Whitmer@countyofnapa.org>;
anne.cottrell@lucene.com; Mazotti, Andrew <Andrew.Mazotti@countyofnapa.org>;
JeriGillPC@outlook.com; Wagenknecht, Brad

<BRAD.WAGENKNECHT@countyofnapa.org>; Gregory, Ryan

<Ryan.Gregory@countyofnapa.org>; Dillon, Diane <Diane.DILLON@countyofnapa.org>;

Pedroza, Alfredo <Alfredo.Pedroza@countyofnapa.org>; Ramos, Belia

<Belia.Ramos@countyofnapa.org>

Subject: Re: Napa County Water Quality and Tree Protection Zoning Ordinance and Text Amendment - Comments

Dear Mr. Morrison,

I am submitting a comment letter regarding the Napa County Water Quality and Tree Protection Zoning Ordinance and Text Amendment (see attached) on behalf of the Center for Biological Diversity.

Please send a confirmation email notifying me that you have received this.

Thank you for the opportunity to submit comments.

Kind regards,

Tiffany

Tiffany Yap, D.Env/PhD
Scientist, Wildlife Corridor Advocate
Urban Wildlands Program
Center for Biological Diversity - Oakland
510.847.5838
www.biologicaldiversity.org

See 21 page attachment below



February 19, 2019

Sent via email and FedEx

David Morrison
County Planning, Building and Environmental Services Director
Napa County Planning, Building and Environmental Services Department
1195 Third Street, Suite 210
Napa, California
Phone: (707) 253-4805
Email: David.Morrison@countyofnapa.org

Re: Napa County Water Quality and Tree Protection Zoning Ordinance and Text Amendment - Comments

Dear Mr. Morrison:

The Center for Biological Diversity (the “Center”) submits the following comments regarding the proposed Napa County Water Quality and Tree Protection Zoning Ordinance and Text Amendment (the “Ordinance”). Although the Ordinance shows some promise with language alluding to the goal of providing “greater environmental protection for natural environmental resources, particularly agricultural lands, forests, habitat, and water,” the substance of these so-called “protections” falls disappointingly short. If approved as currently written, the County would be missing an important opportunity to exhibit the strong environmental leadership needed to protect the County’s natural resources.

The Center is concerned that the County continues to dismiss available scientific information that supports the need for stronger environmental protections to preserve the natural resources that safeguard the County’s residents, wildlife, and agricultural character. The recent increase in development pressures and the lack of enforcement of existing protections threaten the long-term survival of the County’s special habitats, biodiversity, and culture. By failing to adopt stronger environmental protections, the County would be neglecting sound science to benefit developers while sacrificing the safety and economic stability of most of its community members. The Center urges the County to carefully consider existing, scientific evidence supporting much bolder action to preserve existing, intact, heterogenous habitats (*e.g.*, oak and riparian woodlands, chaparral, native grasslands, perennial and intermittent streams and wetlands) that stabilize slopes, keep drinking water clean, protect communities from flooding, sequester carbon, and preserve biodiversity.

The Center is a non-profit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over 1.4 million members and online activists throughout California and the United States. The Center and its members have worked for many years to protect imperiled

plants and wildlife, open space, air and water quality, and overall quality of life for people in Napa County.

I. NAPA IS A BIODIVERISTY HOTSPOT AND THE COUNTY SHOULD PRIORITIZE PRESERVING ITS NATURAL RESOURCES.

The Ordinance should include ensuring the protection the County’s unique biodiversity in Section 1, Section 18.108.010 (Purpose). Napa County is a biodiversity hotspot both within California and globally. It is located within the California Floristic Province, one of five Mediterranean biomes around the world known for high levels of plant diversity and endemism (Cowling et al. 1996; Rundel et al., 2016). Due to its dynamic topography, which ranges in elevation from 0 to 4,200 feet above mean sea level, and its varying microclimates, Napa County boasts a unique and diverse assemblage of habitats, including at least 48 vegetation types, that host numerous plants and wildlife (Napa County 2005). Despite covering only 0.5% of California’s area, Napa County supports more than one third (>1100) of California’s native plant species and 150 special-status plant and wildlife species, including the threatened California red-legged frog (*Rana draytonii*), the endangered Ridgway’s rail (formerly the California clapper rail, *Rallus longirostris obsoletus*), and the threatened steelhead trout (*Oncorhynchus mykiss*, Central California Coast DPS (Thorne et al. 2004; Napa County 2005).

These ecosystems are the backbone of Napa’s idyllic scenery, and they provide important ecosystem services vital to the County’s prosperity and way of life, such as erosion control, water quality protection, groundwater recharge, flood protection, resiliency to climate change, and more. Yet the proposed Ordinance has no mention of the County’s unique biodiversity and does not specifically afford it any protections despite its importance as a natural resource. Development and agricultural expansion into important habitats threaten these biological communities, the important ecosystem services they provide, and the continued long-term viability of the County’s agricultural resources and economic productivity that the Ordinance purportedly aims to “ensure” (Ordinance, page 8). Thus, the Ordinance should prioritize the preservation of the County’s rich biodiversity to sustain healthy ecosystems.

II. AGGRESSIVE CONSERVATION ACTION IS NEEDED TO COMBAT CLIMATE CHANGE.

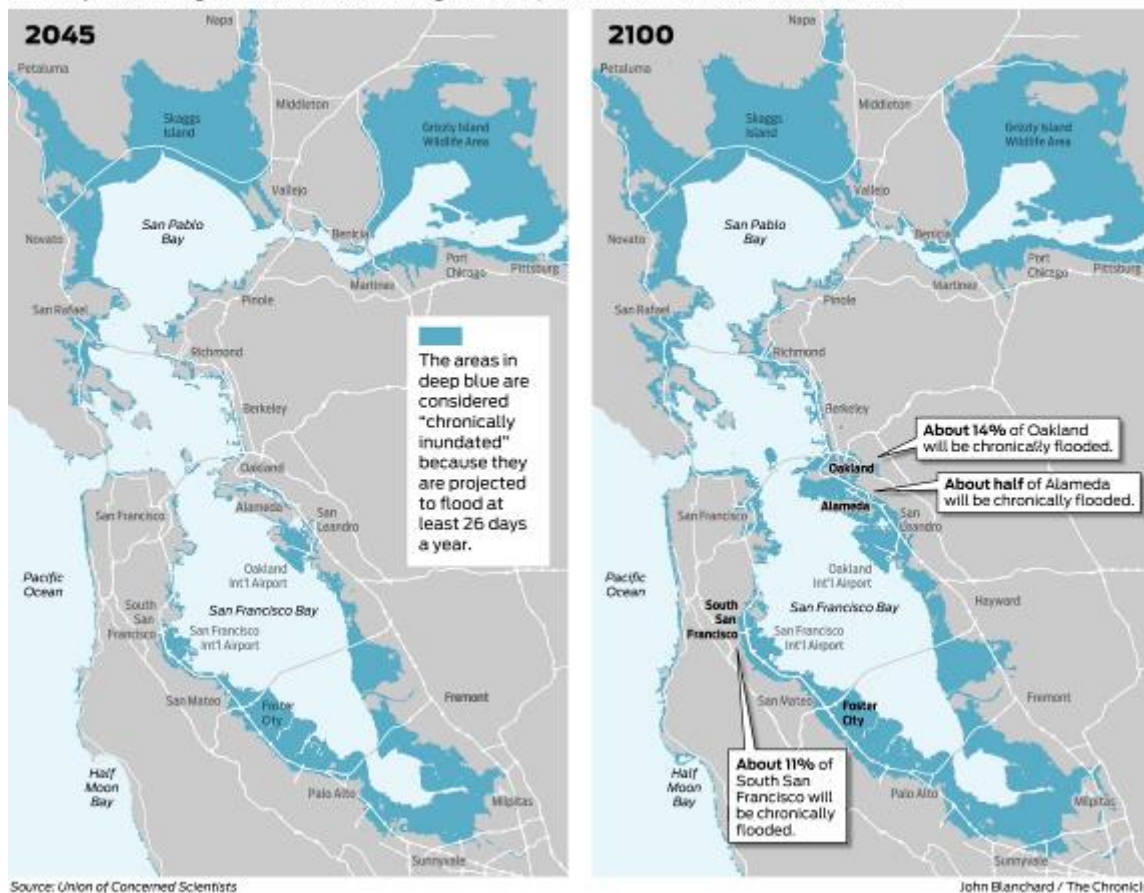
A strong, international scientific consensus has established that human-caused climate change is causing widespread harms to human society and natural systems, and climate change threats are becoming increasingly dangerous. In its 2018 *Special Report on Global Warming of 1.5°C*, the Intergovernmental Panel on Climate Change (“IPCC”)—the leading international scientific body for the assessment of climate change—describes the devastating harms that would occur at 2°C warming¹. The report highlights the necessity of limiting warming to 1.5°C to avoid catastrophic impacts to people and life on Earth (IPCC 2018). The report also provides overwhelming evidence that climate hazards are more urgent and more severe than previously thought, and that aggressive reductions in emissions within the next decade are essential to avoid the most devastating climate change harms.

¹ The Intergovernmental Panel on Climate Change (IPCC) (2018) Special Report: Global Warming of 1.5°C. Available at: <https://www.ipcc.ch/sr15/>

The impacts of climate change are already being felt by humans and wildlife. In addition to warming, many other aspects of global climate are changing in response to human activities. Thousands of studies conducted by researchers around the world have documented changes in surface, atmospheric, and oceanic temperatures; melting glaciers; diminishing snow cover; shrinking sea ice; rising sea levels; ocean acidification; and increasing atmospheric water vapor (USGCRP 2017). In Napa County, climate change will result in such impacts as increased temperatures, flooding of communities from rising sea levels and increasing storm surge, reduced precipitation levels and water availability, and loss of biodiversity due to increasing species extinction (USGCRP 2017, IPCC 2018). The County needs to take rapid action to enhance the resilience of its communities and ecosystems in the face of climate change.

Where chronic flooding will occur

With rapid sea-level rise, many parts of the Bay Area will become more difficult to live in because of flooding, and many residents might choose to move, according to a new report from the Union of Concerned Scientists.



Communities in southern Napa County, such as American Canyon, are vulnerable to chronic flooding due to climate change. Source: Union of Concerned Scientists 2017; Alexander 2017.

III. THE PROPOSED ORDINANCE PROVIDES INSUFFICIENT RETENTION OF TREE CANOPY, SHRUBLANDS, AND GRASSLANDS.

Although the proposed Ordinance is “intended to provide greater environmental protection for environmental resources,” it is grossly insufficient to prevent the County’s natural resources from deteriorating. By requiring only minimal tree canopy and shrubland protections and no grasslands protections, the County ignores the best available science. Napa County deserves effective land use policies that will actually preserve and maintain the structural integrity of the County’s landscape, its rich biodiversity, and the beneficial ecosystem services that its communities depend on.

A. The Ordinance’s Definition of “Vegetation Canopy Cover” Does Not Encompass All Biological Communities of Concern.

The proposed Ordinance’s definition of “vegetation canopy cover” is vague and does not encompass all biological communities of concern. The definition provided in Section 6 Section 18.108.030 only refers to a stand of trees as observed in the most recent aerial photo on file, while “[s]ingle trees are not considered canopy cover.” (Ordinance, page 17). This suggests that some less densely populated oak woodlands may not fall within the Ordinance’s definition of “vegetation canopy cover” and therefore would not be afforded any protections. According to the Oak Woodlands Conservation Act of 2001, Assembly Bill 242, oak woodlands are defined as oak stands (for any species in the genus *Quercus*) “with greater than 10 percent canopy cover or a stand that may have historically supported greater than 10 percent canopy cover.”² Thus, the proposed Ordinance’s definition of “vegetation canopy cover” could exclude areas of oak woodlands and undermine protections intended to preserve these important habitats. To align with the Ordinance’s proclamations that it will “protect forests, oak woodlands, and other native trees” (Ordinance, page 7), the definition of “vegetation canopy cover” should incorporate biologically and ecologically meaningful descriptions of the targeted plant communities and allow for adaptive management based on the best available science. Thorne et al. (2004) provides detailed classification and mapping of vegetation cover in Napa County and could be a good starting point.

B. The Ordinance Should Preserve at Least 90% of Existing Forests and Woodlands.

Retention of 90% of the County’s forests and woodlands would help accomplish the Ordinance’s stated goal to “ensure the continued long-term viability of county agricultural resources by protecting county lands from excessive soil loss which if unprotected could threaten local water quality and quantity and lead ultimately to loss of economic productivity” (Ordinance, page 8). The Ordinance’s proposed retention of 70% of existing vegetation canopy cover is insufficient and does not constitute science-based policy. According to national cropland data from the United States Department of Agriculture (“USDA”), Napa County lost almost 8,000 acres of forest (deciduous forest, evergreen forest, and mixed forest) between 2008 and

² Oak Woodlands Conservation Act of 2001, Assembly Bill 242. Available at: http://www.leginfo.ca.gov/pub/01-02/statute/ch_0551-0600/ch_588_st_2001_ab_242

2017, while about 5,600 acres of grapes were added in that same timeframe.³ Although the calculated increase in grape acreage generally aligns with the County's assessment of increased croplands since 2005, the USDA's calculated forest reduction contradicts the County's claim that only about 2,400 acres of forests have been removed since 2005 (Morrison 2019). When the Center requested the data that the County used to calculate this number, the request was denied. The County's development and implementation of land use policy should be more open and transparent.

Based on County vegetation cover data (Thorne et al. 2004), tens of thousands of acres of forest, mostly consisting of oak woodlands, remain vulnerable to development in Napa County. This is alarming because oak woodlands and other wooded areas, such as pine forests and riparian woodlands, provide valuable habitat and connectivity for a wide variety of species (Bernhardt & Swiecki, 2001; Jedlicka, et al., 2014; Lawrence et al., 2011; Napa County, 2005; Tietje et al., 2015). California has already lost over a million acres of oak woodlands since 1950 (Bolsinger 1988), and riparian areas have been dramatically reduced to less than 95% of historic levels. If this pattern of forest and woodland conversion continues, Napa County will lose irreplaceable biodiversity and ecosystem services.

Forest cover plays a critical role in maintaining important water resources for clean drinking water and agriculture. Reduced forest cover has been shown to result in increased runoff (*i.e.*, pollutants such as pesticides and fertilizers flowing into groundwater and surface waterways), erosion, sedimentation, and water temperatures; changes in channel morphology; decreased soil retention and fertility; and decreased terrestrial and aquatic biodiversity (Brown and Krygier 1970; Pess et al. 2002; Dahlgren et al. 2003; Houlahan and Findlay 2004; Opperman et al. 2005; Lohse et al. 2008; Elliot 2010; Lawrence et al. 2011; Moyle et al. 2011; Zhang and Hiscock 2011; Jedlicka et al. 2014). In addition, forests are an important carbon sink that can help moderate the impacts of climate change (Padilla et al. 2010; Pan et al. 2011), and some researchers argue that at a global scale, trees are linked to increased precipitation and water availability (Ellison et al., 2012). If the County continues to prioritize rapid development at the cost of strong environmental protections, these unique ecosystems and the invaluable services they provide to human communities will be lost.

Much of the County's forests and woodlands have already been lost to agricultural conversion and rural/urban development. Despite the County's assertion that current Conservation Regulations have been "successful" and have "contributed to protecting water quality" (Ordinance, page 6), land use mismanagement and lack of environmental oversight have led to degraded waterways from agricultural runoff, changes in flow, and increased erosion, sedimentation, and water temperatures (Higgins 2006; Higgins 2010). These impacts are evident in the Napa River's muddy waters and the loss of native fishes that once thrived in these waters, such as Coho salmon (which have been extirpated), and steelhead trout (Higgins 2006). Contrary to industry claims that the Napa River has been delisted from the U.S. Environmental Protection Agency's 303(d) list of impaired waters, the Napa River remains a listed impaired water due to excessive sediment and nutrient pollution from historical and current land use practices,

³ United States Department of Agriculture (USDA) National Cropland Data can be acquired at: https://www.nass.usda.gov/Research_and_Science/Cropland/SARS1a.php

including vineyard conversions, grazing, and urbanization^{4,5}. And although the Napa River is in the process of being *considered* for possible delisting for nutrient pollution, it is not being considered for delisting for sediment pollution.

The County cannot afford to lose more of its valuable forest and woodland habitats. Removing more trees for development will only lead to more erosion and sedimentation from destabilized soils while ramping up climate change by releasing more carbon into the atmosphere. Requiring the retention of only 70% of tree canopy is not in accordance with the Ordinance's purported goals listed in Section 1, Section 18.108.010 to "ensure the continued long-term viability of county agricultural resources by protecting county lands from excessive soil loss which if unprotected could threaten local water quality and quantity and lead ultimately to loss of economic productivity[,]. . .[m]inimize cut, fill, earthmoving, grading operations and other such man-made effects in the natural terrain; . . .[m]inimize soil erosion caused by human modifications to the natural terrain; . . .[m]aintain and improve, to the extent feasible, existing water quality by regulating the quantity and quality of runoff entering local watercourses; . . .[e]ncourage development which minimizes impacts on existing land forms, avoids steep slopes, and preserves existing vegetation and unique geologic features; . . . [and] [r]educe the loss of vegetation. . . ." (Ordinance, page 8). To effectively prevent further degradation of Napa's water quality and aquatic habitats, aggressively combat climate change, and fulfill its stated goals while balancing the development needs of the community, the Ordinance should require the preservation of no less than 90% of existing forests and woodlands.

C. Shrublands and Native Grasslands Are Valuable Natural Resources That Need Greater Protections.

As mentioned previously, Napa County is within the California Floristic Province, one of 34 global biodiversity hotspots, named so because of the area's rich plant diversity and high levels of endemism. Special attention should be given to the more than 1,100 native California plant species in the County. Napa County is a rare plants hotspot; it supports five times more rare plant species than California's overall average (Napa County 2005). Special-status and rare plants occur throughout the County's diverse habitats, with a high concentration of species in chaparral/shrubland, serpentine grasslands, oak woodlands, riparian woodlands, wetlands, and rock outcrops (Napa County 2005).

The Ordinance should require a minimum of 60% retention for both shrublands and native grasslands and give high priority to intact habitats and connectivity (rather than preserving isolated patches of habitat) as well as areas containing special-status species or rare plant species. In addition, the Ordinance should require mitigation for any removal of these habitats. The proposed Ordinance's current requirement to retain only 40% of chaparral/shrubland and its lack of nearly any protections for grasslands is a severe oversight that will likely result in significant loss of biodiversity. Chaparral hosts more rare and native California plant species than any other

⁴ San Francisco Bay Regional Water Quality Control Board (2018) Napa River Sediment TMDL and Habitat Enhancement Plan. Available at:

https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/TMDLs/napariversedimenttmdl.html

⁵ San Francisco Bay Regional Water Quality Control Board (2018) Napa River Nutrient TMDL. Available at: https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/TMDLs/naparivenutrienttmdl.html

plant community (Halsey and Keeley 2016), and most chaparral flora have high site fidelity, meaning they do not occur in other habitats or plant communities (Quinn and Keeley 2006). Chaparral also provides habitat for numerous wildlife species, both seasonally and year-round, and as a whole it supports more species of mammals, birds, and reptiles than most California ecosystems (Quinn and Keeley 2006). Native grasslands are also important habitat for numerous plant and animal species. Requiring such a low retention of chaparral, no retention of native grasslands, and no mitigation for removal of these habitats will diminish much of the County's rich biodiversity.

In addition, non-forested habitats, such as chaparral ecosystems and native grasslands, have been shown to store significant amounts of carbon within their vegetation and their soils, which makes them additional resources to help combat climate change (Koteen et al., 2011; Luo et al., 2007; Quideau et al., 1998). And like forests, these plant communities also provide other ecosystem services, such as soil stability, erosion control, and groundwater recharge (Napa County 2005). The County should prioritize protecting the thousands of acres of chaparral/shrubland and grassland vulnerable to development, which are essential to Napa's heterogeneous natural landscape.

The proposed Ordinance's limited requirements of 40% retention of shrublands and no retention of native grasslands are insufficient and will not aid the County in achieving its purported goals listed in Section 1 Section 18.108.010(B) to "[m]inimize cut, fill, earthmoving, grading operations and other such man-made effects in the natural terrain;...[m]inimize soil erosion caused by human modifications to the natural terrain;...[m]aintain and improve, to the extent feasible, existing water quality by regulating the quantity and quality of runoff entering local watercourses;... [e]ncourage development which minimizes impacts on existing land forms, avoids steep slopes, and preserves existing vegetation and unique geologic features;... [and] [r]educe the loss of vegetation..." (Ordinance, page 8). The County should require a minimum of 60% retention for both shrublands and native grasslands and give high priority to intact habitats and connectivity (rather than preserving isolated patches of habitat) as well as areas containing special-status species or rare plant species. In addition, the Ordinance should require mitigation for any removal of these habitats.

IV. THE PROPOSED ORDINANCE'S TIERED MITIGATION APPROACH IS INSUFFICIENT AND FLAWED.

The proposed Ordinance's 3:1 tiered mitigation approach for tree canopy removal is insufficient. Not only are forests and woodlands necessary to sustain the County's unique biodiversity, they are also important for many ecosystem services that the County's residents rely on for safety and economic stability, including water quality protection, carbon sequestration, erosion control, and soil retention (Brown and Krygier 1970; Elliot 2010; Lawrence et al. 2011; Moyle et al. 2011; Pan et al. 2011; Jedlicka et al. 2014). The proposed mitigation ratio of 3:1 pales in comparison to Santa Barbara County's Deciduous Oak Tree Protection and Regeneration Ordinance, which requires a 15:1 mitigation ratio (via replacement planting or protection of naturally occurring oaks between six inches and six feet tall) for removed oak trees (County of Santa Barbara 2003). The Ordinance should require appropriate mitigation measures that actually minimize project impacts.

A. The Ordinance Should Not Allow Mitigation on Slopes Greater than 30 Percent.

The provision allowing mitigation to occur on lands with slopes greater than 30% significantly undermines the Ordinance’s purported goal of increasing environmental protections. As part of a proposed tiered approach to mitigation, the Ordinance allows for mitigation on slopes between 30-50% if on-site mitigation at a 3:1 ratio cannot first be accomplished on lands with slopes less than 30%. (Section 2, Section 18.108.020(D)(2), page 9.) This provision would allow project proponents to count land that is already essentially undevelopable as preservation towards meeting the 3:1 mitigation ratio. If the County is serious about mitigating project impacts, it must require preservation that actually minimizes the loss of vegetation and degradation of habitat, rather than allowing duplicative preservation of already protected land.

B. Land Consisting of Slopes Greater than 30% is Essentially Undevelopable.

Planning Staff contend there is a “nexus” for providing protection of slopes over 30% because development on these slopes can be allowed through a use permit. (Staff Report item 9C, Jan. 29 2019, page 16.) But in the same staff report, Planning Staff acknowledge the risks of allowing development on slopes greater than 30%, noting that “any proposed grading or disturbance on steep slopes has a high potential for erosion and landslide, even with proper engineering construction and management.” (Staff Report, page 9.) This recognition led Planning Staff to recommend a categorical prohibition on development on slopes of more than 30%, absent an exemption. (Staff Report, page 9.) The Planning Staff properly recognized that the environmental risks inherent in steep slope development make issuance of a use permit for such development unlikely. Pursuant to the Napa County Code, in order for the County to issue a use permit for development on lands of greater than 30% slope, it must make findings concerning effective erosion control, stream protection, and impacts to plant and wildlife habitat. (Napa County Code § 18.108.040(B),(1)-(4).) Given that Planning Staff is tasked with granting Erosion Control Permits (a necessary approval for anyone seeking the above-referenced use permit) and recommend a prohibition on development on slopes over 30%, it follows that use permits would rarely, if ever, be granted for development on slopes over 30%. Allowing preservation on slopes greater than 30% to count toward the 3:1 ratio mitigation requirement is therefore a form of “double-counting,” as those lands are already essentially undevelopable.

C. Preserving Undevelopable Land Does Not Mitigate the Impacts of Development.

Mitigation required by the Ordinance should meet the California Environmental Quality Act’s (“CEQA”) statutory standards for mitigation. Any proposed project that is subject to the Ordinance’s requirements will also be subject to CEQA’s mandates. (See Napa County’s Local Procedures for Implementing CEQA.) Consistency with CEQA mitigation requirements will provide project proponents, the public, and decision-makers with a clear and efficient framework for the disclosure and analysis of project impacts.

The Ordinance's mitigation requirements will only achieve meaningful environmental protection if they meet or exceed long-established CEQA standards. Identifying and implementing feasible mitigation measures to avoid or reduce a project's significant environmental impacts is a core CEQA requirement. (Pub. Res. Code § 21081; *see also* 14 Cal. Code Regs § 15370.) Allowing canopy preservation on slopes greater than 30% to satisfy mitigation requirements fails to achieve the core purpose of mitigation, which is to substantially lessen or avoid the negative impacts of a proposed project. The proposed Ordinance's mitigation regime would not result in any quantifiable change in a project's anticipated environmental impacts as compared to existing conditions on the project site. Instead it would allow illusory measures with no real-world benefit in the place of environmentally beneficial mitigation measures. This does not satisfy CEQA's requirements for mitigation. (*See Lincoln Place Tenants Assn. v. City of Los Angeles* (2007) 155 Cal.App.4th 425, 445 ["A 'mitigation measure' is a suggestion or change that would reduce or minimize significant adverse impacts on the environment caused by the project as proposed"].) The Ordinance should require on-site mitigation on developable lands to secure *actual* environmental benefits, thus avoiding or minimizing a project's impacts. Preservation of land that is never in danger of being developed is not meaningful preservation.

D. The Ordinance's Mitigation Requirements Fail to Address the Loss of Carbon Sequestration from Woodland Conversion Projects.

Throughout the Strategic Plan and Ordinance processes the public has voiced significant concern about the impacts that climate change is having, and will continue to have, on Napa County's communities and natural resources. The proposed Ordinance fails to mitigate the greenhouse gas ("GHG") impacts that result from the conversion of forest and shrubland habitats. Merely requiring conversion projects to retain already protected sequestration resources does nothing to reduce the potentially significant impacts of removing mature trees and other vegetation. CEQA requires that projects' GHG impacts be assessed; as currently written, the Ordinance's proposed mitigation approach fails to ensure the reduction of GHG emissions. (*See* 14 Cal. Code Regs § 15126.4(c).) Allowing mitigation on slopes greater than 30% that would not otherwise be developed does nothing to lessen or avoid a project's GHG impacts.

E. The Ordinance's Tiered Mitigation Approach for Vegetation Canopy Should Result in Minimized Impacts.

The Ordinance should prioritize *avoiding or minimizing* impacts for all projects, prior to mitigation. When avoidance and minimization measures are infeasible, removed tree canopy should be mitigated at a *minimum* of 3:1 onsite by preserving existing habitat onsite and within developable lands (*i.e.*, on slopes with < 30% grade and outside of stream, wetland, and reservoir setbacks). The Ordinance should require that if onsite mitigation within developable land is infeasible, mitigation land shall be preserved in perpetuity on developable lands within the watershed at a ratio of 5:1. If qualifying land is unavailable within the watershed, then the County should require mitigation land to be preserved in perpetuity on developable lands as close as possible to the project and within the County at a ratio of 10:1.

V. THE ORDINANCE SHOULD PROVIDE GREATER BUFFER ZONES FOR STREAMS, WETLANDS, AND RESERVOIRS.

The requirements set forth in the proposed Ordinance will not accomplish the stated goals in Section 1 Section 18.108.010(B) to “[p]reserve riparian and wetland areas and other natural habitat by controlling development near streams, and rivers and wetlands;...[and] [p]rotect drinking water supply reservoirs in sensitive domestic water supply drainages from sediment, turbidity, and pollution through vegetation retention and no development buffers around municipal reservoirs.” (Ordinance, page 8). To accomplish these goals, the Ordinance should consider the best available science and require a minimum 300-foot setback from reservoirs as well as all perennial and intermittent streams and wetlands (including vernal pools) that are within designated critical habitat, support or have the potential to support special-status and/or sensitive species, or provide connectivity and linkages to support multiple species. If the streams or wetlands are not located within designated critical habitat, do not support or have the potential to support special-status or sensitive species, and do not provide essential habitat connectivity, as determined by a qualified biologist, then a minimum 100-foot buffer should be required.

Science has shown that implementing adequate buffers throughout the catchment or watershed, not just at or around the reservoir, is a more effective strategy to keep pollutants and sedimentation out of reservoirs (Norris 1993; Whipple Jr. 1993). Researchers suggest that to reduce sedimentation and pollution in drinking water supplies a minimum 300-foot buffer should be established around reservoirs, and larger buffer zones should be established around upstream channels and tributaries closer to pollution sources (such as vineyards) of sediment and other pollutants (Nieswand et al. 1990; Norris 1993; Whipple Jr. 1993). Thus, the Ordinance’s proposed 200-foot buffer around reservoirs, 35- to 65-foot setbacks from streams, and 50-foot setbacks from wetlands will not adequately protect water quality from degrading due to sediment, turbidity, and other types of pollution, such as excessive nutrients (nitrogen and phosphorous) and pesticides—issues that Napa County is already facing. Larger buffer zones than those proposed in the Ordinance along streams and wetlands upstream of reservoirs would provide more stream bank stabilization, water quality protection, groundwater recharge, and flood control both locally and throughout the watershed (Nieswand et al. 1990; Norris 1993; Whipple Jr. 1993; Sabater et al. 2000; Lovell and Sullivan 2006). They would also protect communities from impacts due to climate change by buffering them from storms, minimizing impacts of floods, and providing water storage during drought (Environmental Law Institute 2008). Thus, the County should require a minimum 300-foot buffer around reservoirs with a minimum of 100- to 300-foot setbacks from streams and wetlands, depending on whether the habitat is located within designated critical habitat, supports or has the potential to support special-status and/or sensitive species, or if it provides important habitat connectivity or linkages.

In the San Francisco Bay Area, stream setbacks range between 30 – 200 feet, depending on the type of land use (*i.e.*, urban versus rural), or the quality or type of existing habitat (Robins 2002). For example, Sonoma County implements some of the more stringent setbacks, with requirements for a 200-foot buffer in the Russian River Riparian Corridor, a 100-foot buffer for flatland riparian stream corridors, and a 50-foot buffer for other riparian stream corridors⁶.

⁶ County of Sonoma (2008) General Plan 2020. Available at: <https://sonomacounty.ca.gov/PRMD/Long-Range-Plans/General-Plan/>

Although smaller buffers may be locally adequate to alleviate water quality concerns in the short-term, they are often insufficient for wildlife (Kilgo et al., 1998; Fischer et al. 2000; Semlitsch & Bodie, 2003). Streams (perennial and intermittent), wetlands (including vernal pools and salt marshes), and reservoirs throughout the County support numerous special-status flora and fauna, including steelhead trout, Chinook salmon, California freshwater shrimp (*Syncaris pacifica*), and California red-legged frogs. Many species that rely on these aquatic habitats also rely on the adjacent upland habitats (e.g., riparian areas along streams, and grassland habitat adjacent to wetlands). In fact, 60% of amphibian species, 16% of reptiles, 34% of birds and 12% of mammals in the Pacific Coast ecoregion (which includes Napa County) depend on riparian-stream systems for survival (Kelsey and West 1998). Many other species, including mountain lions and bobcats, often use riparian areas and natural ridgelines as migration corridors or foraging habitat (Dickson et al, 2005; Hilty & Merenlender, 2004; Jennings & Lewison, 2013; Jennings & Zeller, 2017). Additionally, fish rely on healthy upland areas to influence suitable spawning habitat (Lohse et al. 2008), and agricultural encroachment on these habitats and over-aggressive removal of riparian areas have been identified as a major driver of declines in freshwater and anadromous fish as well as California freshwater shrimp (e.g., Stillwater Sciences 2002; Lohse et al. 2008; Moyle et al. 2011). Loss of biodiversity due to lack of habitat contributes to ecosystem degradation, which will diminish a multitude of ecosystem services in the long-term. Thus, to preserve the County's valuable biodiversity in these habitats, it is important to develop and implement effective buffer widths informed by the best available science.

A literature review found that recommended buffers for wildlife often far exceeded 100 meters (~325 feet), well beyond the largest buffers implemented in practice (Robins 2002). For example, Kilgo et al. (1998) recommend more than 1,600 feet of riparian buffer to sustain bird diversity. In addition, amphibians, which are considered environmental health indicators, have been found to migrate over 1,000 feet between aquatic and terrestrial habitats through multiple life stages (Semlitsch and Bodie 2003; Trenham and Shaffer 2005; Cushman 2006; Fellers and Kleeman 2007). Specifically, the California red-legged frog, a threatened species that occurs and has designated critical habitat within Napa County, was found to migrate about 600 feet between breeding ponds and non-breeding upland habitat and streams, with some individuals roaming over 4,500 feet from the water (Fellers and Kleeman 2007). Other sensitive species known to occur in Napa County, such as western pond turtles (*Actinemys marmorata*, a candidate species under the Endangered Species Act) and California newts (*Taricha torosa*), have been found to migrate over 1,300 feet and 10,000 feet respectively from breeding ponds and streams (Trenham 1998; Semlitsch and Bodie 2003). Accommodating the more long-range dispersers is vital for continued survival of species populations and/or recolonization following a local extinction (Semlitsch and Bodie 2003, Cushman 2006). In addition, more extensive buffers provide resiliency in the face of climate change-driven alterations to these habitats, which will cause shifts in species ranges and distributions (Cushman et al., 2013; Heller & Zavaleta, 2009; Warren et al., 2011). This emphasizes the need for sizeable riparian and upland buffers around streams and wetlands in Napa County, as well as connectivity corridors between heterogeneous habitats.

The proposed Ordinance's requirements of 50-foot setbacks from wetlands and 35- to 65-foot setbacks from streams are grossly insufficient and will not slow the degradation of these important ecosystems and the services they provide. To protect Napa County's highly diverse

ecosystems and the services they provide, the Ordinance should require a minimum 300-foot setback from all perennial and intermittent streams and wetlands (including vernal pools) that are within designated critical habitat, support or have the potential to support special-status and/or sensitive species, or provide connectivity and linkages to support multiple species. If the streams or wetlands are not located within designated critical habitat, do not support or have the potential to support special-status or sensitive species, and do not provide essential habitat connectivity, as determined by a qualified biologist, then a minimum 100-foot buffer should be required.

VI. THE ORDINANCE SHOULD ENSURE WILDLIFE MOVEMENT AND HABITAT CONNECTIVITY.

The proposed Ordinance provides no guidance or requirements regarding the preservation or enhancement of wildlife connectivity throughout the County. Overlooking protections for wildlife movement corridors undermines the County's ability to effectively preserve its natural resources and important ecosystem services. To accomplish the Ordinance's stated purpose to "provide greater environmental protection for natural environmental resources" (Ordinance, page 6-7), the Ordinance should require that all projects avoid or minimize impacts to wildlife movement and habitat connectivity to the maximum extent feasible by prioritizing the preservation of large, intact patches of habitat and important linkages.

Habitat connectivity is vital for wildlife movement and biodiversity conservation. Restrictions on movement and dispersal (*e.g.*, development, roads, and fenced-off croplands) can negatively affect animals' behavior, movement patterns, reproductive success, and physiological state, which can lead to significant impacts on individual wildlife, populations, communities, and landscapes (Ceia-Hasse et al., 2018; Cushman, 2006; Haddad et al., 2015; Trombulak & Frissell, 2000; van der Ree et al., 2011). Individuals can die off, populations can become isolated, sensitive species can become locally extinct, and important ecological processes like plant pollination and nutrient cycling can be lost. In addition, connectivity between high quality habitat areas in heterogeneous landscapes is important to allow for range shifts and species migrations as climate changes (Heller and Zavaleta 2009; Cushman et al. 2013; Krosby et al. 2018). Loss of wildlife connectivity decreases biodiversity and degrades ecosystems. Thus, the Ordinance should include measures to ensure habitat connectivity and wildlife movement at the local and regional scale.

Wildlife connectivity and migration corridors are important at the local, regional, and continental scale. As mentioned in the previous section, local connectivity that links aquatic and terrestrial habitats would allow various sensitive species to persist, including state- and federally-protected California red-legged frogs and western pond turtles. At a regional scale, medium- and large-sized mammals that occur in Napa County, such as mountain lions (*Puma concolor*), bobcats (*Lynx rufus*), gray foxes (*Urocyon cinereoargenteus*), ring-tailed cats (*Bassariscus astutus*), and mule deer (*Odocoileus hemionus*), require large patches of heterogeneous habitat to forage, seek shelter/refuge, and find mates. At a global scale, Napa County is an important stop for about 400 resident and migratory bird species within the Pacific Flyway, a north-south migratory corridor that extends from Alaska to Patagonia. For example, while Anna's hummingbirds (*Calypte anna*) often reside in Napa County's chaparral, oak woodlands, and riparian areas year-round, Allen's hummingbirds (*Selasphorus sasin*) migrate from Mexico in the

spring to nest in Napa's oak woodlands and riparian areas, and rufous hummingbirds (*Selasphorus rufus*) migrate through Napa on their way to and from their breeding grounds in Canada and their over-wintering grounds in the Gulf Coast. In addition, anadromous fish, such as Chinook salmon and steelhead trout, are born in some of Napa's waterways, spend several years in the Pacific Ocean, and return to Napa to spawn. Napa County is a critical hub for local and global biodiversity; wildlife movement and habitat connectivity must be maintained throughout the County. The Ordinance should require all development projects to take impacts on wildlife movement and habitat connectivity into consideration.

VII. THE ORDINANCE SHOULD APPLY TO ALL PENDING AND NEW DEVELOPMENT.

The Ordinance's environmental protections should apply to all types of pending and new development, including agricultural projects of five acres or less on slopes less than 15% grade that are currently proposed to be exempt from the Ordinance (Ordinance, page 5). Cumulative impacts from smaller projects can add up and have a significant impact on watershed health. Studies have shown that land use patterns at the watershed scale are correlated with water quality, carbon sequestration, and the level of species abundance and biodiversity (Pess et al. 2002; Opperman et al. 2005; Lohse et al. 2008; Padilla et al. 2010; Grantham et al. 2012). For example, higher levels of vineyard/agricultural conversion and exurban development within watersheds have been associated with increased fine sediment inputs to streams (Opperman et al. 2005; Lohse et al. 2008), reduced diversity of aquatic macroinvertebrates (Lawrence et al. 2011), reduced abundance and diversity of native fishes (Pess et al. 2002; Lohse et al. 2008), and reduced carbon sequestration (Padilla et al. 2010). These studies indicate that land use planning and policies need to consider impacts at the watershed scale to implement effective environmental protections that actually safeguard important natural resources like water quality and erosion control. To do so will require that the Ordinance apply to all development projects in the County.

VIII. THE COUNTY SHOULD FOCUS ON FIRE-RESISTANT RETROFITTING AND DEFENSIBLE SPACE FOR FIRE SAFETY.

The Center urges the County to protect human lives, property, and native biodiversity by adapting strategies for communities to coexist with wildfires. Napa County should help communities safely co-exist with fire by prioritizing the implementation of proven fire-safety measures. Structures with fire-resistant features, such as ember-resistant vents, fire-resistant roofs, 100 feet of surrounding defensible space, rain gutter guards, and external sprinklers with an independent water source, have been shown to reduce the risk of destruction due to wildfires (Quarles et al. 2010; Syphard et al. 2014; California Chaparral Institute 2018). However, although these fire-resistant structural features are important, fire safety education and enforcement for home and property owners are vital for these safety measures to be effective. Proper maintenance and upkeep of the structural fire-resistant features and the immediate surroundings (*e.g.*, removing leaf litter from gutters and roofing; removing flammable materials like wood fences, overhanging tree branches, or trash cans away from the home) are required to reduce the chances of the structures burning. In addition, education about how to prevent fire ignitions for Napa County communities would further reduce fire risk. The Ordinance should

include language that specifies using the best available science to reduce wildfire risk for residents and structures.

IX. THE ORDINANCE SHOULD PROVIDE SPECIFIC, MEASURABLE PARAMETERS FOR ASSESSING ENVIRONMENTAL IMPACTS AND COMPLIANCE

The proposed Ordinance frequently fails to provide language specific enough to determine which requirements apply and how compliance can be achieved. Below are just a few examples.

In Section 2, Section 18.108.020, (D)(2) states that “[i]f sufficient vegetation canopy cover to achieve the 3:1 ratio in full or in part cannot be accomplished under subsection (D)(1) of this section, on-site preservation or replacement may occur on slopes greater thirty one percent and up to fifty percent in areas that result in the highest biological and water quality protections as determined by the director.” (Ordinance, page 9).⁷ Understanding that the text is meant to read as “...on slopes greater than thirty percent and up to fifty percent...,” the Ordinance should enumerate the factors the County will consider when determining that preserving certain areas between 30 to 50 percent slope would result in the “highest biological and water quality protections.” Similarly, in (D)(3) of the same section, the proposed Ordinance states that “[i]f sufficient vegetation canopy cover to achieve the 3:1 ratio in full or in part cannot be accomplished under subsections (D)(1) and (D)(2) of this section, off-site replacement or preservation may occur if it is within the same watershed and the habitat is of the same or better quality as determined by the director.” (Ordinance, page 9). The Ordinance should provide concrete parameters for how the County will assess whether habitat would have the same or better quality as the vegetation canopy cover that would be removed.

Similarly, the Ordinance is less than clear in Section 3, Section 18.108.025(E), where it describes permitted uses within required stream setbacks. According to (E)(12) of that section, “[i]n installation of stream crossings, recreational roads, and equestrian and nonmotorized trails in accordance with appropriate permits from other state, federal and local use permit requirements when it can be determined by the director that the least environmentally damaging alternative has been selected as a part of an approved project.” The Ordinance should be revised to clarify how the County will determine how the “least environmentally damaging alternative” would be selected and implemented.

Likewise, in Section 3, Section 18.108.025(F) regarding construction fencing to protect stream setbacks, wetlands, and other features, the proposed Ordinance states “[w]here appropriate, the director may require an applicant to install and maintain construction fencing, or other means of demarcation acceptable to the director, in a manner that protects stream setback areas, wetlands, wildlife corridors, sensitive areas and other protected features from intrusion or disturbance during land clearing and earth-disturbing activities.” Again, the Ordinance should specify what would constitute an “appropriate” area and situation for the installation of construction fencing or what other means of demarcation might be “acceptable” to the director.

⁷ As described above, the proposed Ordinance’s tiered approach to mitigation, which allows mitigation to occur on slopes over 30%, is otherwise flawed.

Another instance requiring more specific language is Section 8, Section 18.108.050 (J), which provides that the following activity is exempt from the Ordinance:

“Land clearing, earthmoving and/or grading pursuant to a permit other than a timberland conversion permit or a notice of less than three-acre conversion exemption (or similar exemption process) issued by: (1) a state or federal agency in compliance with applicable provisions of state or federal laws or regulations where adequate erosion control measures as determined by the county of Napa have been incorporated as part of the project or (2) by a city in relation to city-owned property exempt from the zoning regulations of the county of Napa. This exception only applies to those portions of the project specifically authorized by the state or federal permit involved. Components or parts of the project not specifically authorized by a state or federal permit shall be subject to this chapter...”

(Ordinance, page 20). The Ordinance should clarify what constitutes “adequate erosion control measures as determined by the county of Napa.” Otherwise, consistent enforcement will be difficult, if not impossible.

In contrast, an example of where the proposed Ordinance provides adequate specificity and guidance is in Section 16 Section 18.108.140 (A1c), in which the director determines whether or not an area has a severe soil erosion hazard “based on the Napa County Soil Survey prepared by the Federal Resource Conservation Service...” (Ordinance, page 29). The Ordinance should provide the necessary guidance for consistency, enforcement, and compliance.

X. THE ORDINANCE SHOULD ENSURE THAT THE PUBLIC IS INCLUDED IN THE ORDINANCE DEVELOPMENT PROCESS AND HAS AMPLE NOTICE OF ANY FUTURE CHANGES TO THE ORDINANCE.

Given the history of controversy surrounding the issues addressed in the Ordinance and the public’s demonstrated interest in actively participating in these matters, the Ordinance should ensure that any future changes are presented to the public with enough time to allow for meaningful deliberation and input. Accordingly, the Ordinance should include a provision stating that the public will be provided with at least 60 days’ notice of any future amendments to the Ordinance, and that the public notice shall include both a certified copy of the full text of the proposed amendments and a summary of the proposed amendments. Furthermore, the Ordinance should require that staff prepare a report analyzing the potential environmental effects (whether positive or negative) of any such proposed amendments, to be published along with the text and summary of the proposed amendments and included in the 60-day notice. Any such report should be prepared independently of whether the ordinance is considered a “project” requiring environmental review under CEQA. The Ordinance should additionally provide that the Board will hold a hearing to receive and consider public comment on the amendments, summary, and environmental analysis at least 30 days before the meeting during which the Board considers adopting the amendments.

XI. CONCLUSION

This Ordinance provides an opportunity for the County to exhibit strong environmental leadership and preserve Napa's unique ecosystems and the valuable services they provide; however, as it is currently written, the proposed Ordinance falls short. The proposed Ordinance will not accomplish its purpose to "provide greater environmental protection for natural environmental resources including water quality, biological productivity, and the economic and environmental value of Napa County's streams, watersheds, wetlands, sensitive domestic water supply reservoirs, trees, and forests, and to safeguard the public health, safety and welfare of the County's residents" (Ordinance, page 6-7). The County must not ignore the best available science, which emphasizes the urgency of bold, forward-thinking, climate-wise environmental protections to safeguard the County's future. Without stronger environmental protections to protect large setbacks from streams, wetlands, and reservoirs and retain soil-stabilizing, pollution-filtering, and carbon-sequestering forests, shrublands, and native grasslands, the county will suffer from degraded ecosystems that will lead to erosion, poor water quality, less water and groundwater availability, less protection from storm events and flooding, and loss of biodiversity.

Thank you for the opportunity to comment on the Napa County Water Quality and Tree Protection Zoning Ordinance and Text Amendment. We look forward to working with the County to ensure that it integrates climate-wise land use policy to preserve its unique natural landscapes, biodiversity, ecosystem services, and culture. Please do not hesitate to contact the Center with any questions at the number or email listed below.

Sincerely,



Tiffany Yap, Scientist
Ross Middlemiss, Attorney
Center for Biological Diversity, 1212 Broadway, Suite #800, Oakland, CA 94612
Tel: (510) 844-7139
Email: tyap@biologicaldiversity.org

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Original Message-----

From: Barbara Guggia <tahoemtgirl@gmail.com>

Sent: Tuesday, February 19, 2019 9:39 AM

To: Morrison, David

<David.Morrison@countyofnapa.org>

Subject: Please forward to Commissioners RE: Planning Commission Meeting February 20, 2019

To: The Napa County Planning Commission

From: Barbara Guggia

RE: Watershed Protection Ordinance

I strongly urge the Planning Commission to not approve the limited draft ordinance but look beyond the Planning Department recommendation and create a strong, sustainable, and common sense watershed protection plan that will build upon the heritage of the Agricultural Preserve. We can all agree that the Napa Valley is a treasure and we must take appropriate action to preserve it's beauty, agricultural viability, and livability. By taking a stance for stronger preservation, you will have a significant impact on the quality of life in the valley for years. I recommend you include a 90% tree canopy cover, improve the 3:1 removal mitigation, and stop approving clear cutting of our forests.

Thank you for your time and consideration, Barbara Guggia

From: Karen Mueller <karen@mckenziemuell.com>
Sent: Tuesday, February 19, 2019 10:04 AM
To: Morrison, David <David.Morrison@countyofnapa.org>
Subject: new "watershed" regulations

Hello, my name is Karen Mueller, I am a many generation Napan, retired teacher, farmer, and co-owner and operator of a small family run winery.

Some comments on the proposed changes to "watershed" regulations.

1. When considering tree canopy and tree cutting regulation changes, please pay attention to CDF's recommendations concerning the need for better forest management in Napa County. Better forest management is essential to help prevent the terrible wildfires in our valley, please do not tie the hands of landowners by over regulating tree cutting. (in regards to air quality, surely wildfires are not good)

2. Please remember that the state water resource control board recently enacted harsh new regulations for vineyards, that we are just starting to grapple with, please don't enact conflicting county regulations.

3. Please keep in mind that generally, the very farmers and wineries that are usually better stewards of the land, the small, family owned businesses, are the ones who are going to be the most heavily impacted by any new regulations. These regulations are going to mean more bureaucracy, even longer wait times and greater expense for permit applications. Larger outside corporations can absorb the extra cost better than the small farmer/vintner.

4. According to Fish Friendly Farming literature, agriculture is responsible for only 8% of greenhouse gas emissions, whereas the greater % of these emissions are caused by transportation (38%) industrial (21%) and power generation (19%), - so, 78% of greenhouse gas emissions is due to causes other than agriculture. And yet, Napa county and the sierra club is going after the farmers.

I would suggest that if Napa County wants to cut down on air pollution, they should be addressing the housing shortage (and with it the traffic problems) in a much more serious way.

5. As far as water quality, even the swrcb has acknowledged that the data they used for their recent regulations was years old, and that changes in farming practices guided by such organizations as fish friendly farming and others has led to vast improvements in the water quality in the Napa river. I urge the county to base their decisions on outside scientific data and NOT on "science" supplied by sierra club members other such politically charged groups.

I am NOT a climate change denier. Climate change is real, it is here, and we cannot wait to fight it. However, I would suggest that these regulation changes as proposed are not going to address the actual problems, but may make it worse, by encouraging corporate greed at the expense of the small family farmer and vintner. I urge Napa County to step up and address the real problems, housing shortage, traffic, "event centers" in the ag preserve and watershed, rather than punish the small businesses that support this valley and make it what it is. Sincerely, Karen Mueller

Sent with BlackBerry Work
(www.blackberry.com)

From: Lisa & Larry Carr <carrhollow@gmail.com>
Date: Tuesday, Feb 19, 2019, 10:49 AM
To: Cottrell Anne <anne.cottrell@lucene.com>, Gallagher Joelle <joellegPC@gmail.com>, Whitmer, David <Dave.Whitmer@countyofnapa.org>, Mazotti, Andrew <Andrew.Mazotti@countyofnapa.org>, Gill Jeri <JeriGillPC@outlook.com>
Cc: Pedroza, Alfredo <Alfredo.Pedroza@countyofnapa.org>, Dillon, Diane <Diane.DILLON@countyofnapa.org>, Wagenknecht, Brad <BRAD.WAGENKNECHT@countyofnapa.org>, Ramos, Belia <Belia.Ramos@countyofnapa.org>, Gregory, Ryan <Ryan.Gregory@countyofnapa.org>, Morrison, David <David.Morrison@countyofnapa.org>
Subject: Watershed Protection Ordinance

Dear Commissioners and Supervisors,

Please find my attached letter concerning the Watershed Protection Ordinance which I'm submitting for the record.

Thank you,
Lisa Hirayama

16 Dogwood Court
Napa, CA 94558
February 19, 2019

Dear Planning Commissioners,

I am deeply troubled and concerned about the proposed watershed protection ordinance. The recommended 70% tree canopy cover retention is an unacceptable minimum number. I believe that 90% is needed and can be achieved in combination with further important protections that need strengthening also.

The county's proposed 3:1 tree removal mitigation on slopes greater than 30% is unacceptable. This practice has been described as "double-dipping." Allowing preservation on steeper slopes that are already protected might help facilitate mitigation, but it defeats the primary goal of limiting the clear-cutting of Napa's forests. Preservation needs to take place on developable land located outside of already protected steeper slopes and already protected stream and wetland setbacks. Nothing has been gained by stating that Napa is protecting areas that are already protected.

The proposed definition of "vegetation canopy cover" considers canopy cover as the continuous, collective cover of a grouping of trees. It does not consider single trees as part of the canopy cover. This is disgraceful because it does not address oak woodlands where there isn't a closed canopy. State law (AB242, Thomson 2001) addresses oak ecosystems whereby an "oak woodland" is defined as an oak stand with greater than 10% canopy cover or that may have historically supported greater than 10% canopy cover. By using this definition, single oak trees would be counted as part of the canopy cover. Single trees must be included in the protections. All of us have seen a single, mature,

gnarled limbed, majestic, hundred year(s) old oak tree standing in a field, alongside a road, or next to a residence somewhere in Napa County. More than likely, that tree used to be part of a forest or canopy and was strong enough to survive the demise of its sister trees, so now it is no longer considered important enough to Napa County because it stands alone? When does Napa County begin to value our natural heritage for more than just money? Where are Napa County's values?

Global warming is a fact with science to back it up. 2016 was the hottest year in history, 2017 was the third and 2018 was the fourth. Weather events are becoming more extreme and will continue to do so due to global warming. Deforestation is considered to be one of the contributing factors to global climate change. One tree can absorb as much as 48 pounds of carbon dioxide per year and can sequester 1 ton of carbon dioxide by the time it reaches 40 years old. 100 metric tons of carbon dioxide can accumulate in one acre of forest over time. Each person generates approximately 2.3 tons of carbon dioxide per year. The carbon footprints of 18 average people can be neutralized by one acre of hardwood trees. Cutting down mature trees to replace them with vineyards that can never replicate these numbers is shortsighted. And cutting down mature trees on the hillsides and in the watersheds is even more egregious. Because the valley floor has been "planted out", does that mean the hills are fair game?

The wine industry continues to state that the "other side" has no facts or science and only runs on emotions. The "other side" had 4+ scientists speak about the biodiversity importance of Napa County at the January 29, 2019 Board of Supervisors meeting. Someone has to speak up for the trees and ecosystems before there are none left in Napa County because science appears to be swept under the rug.

Napa County has already experienced climate change effects. In 2017, the Atlas and Partrick Fires were fueled by record winds, the likes of which had never been experienced in Napa County before. In 2018, the Carr and Camp Fires, also fueled by record winds, destroyed complete towns. The world's leading climate scientists just warned in October 2018 that there is only about a dozen years left for global warming to be kept to a maximum of 1.5 degrees celsius, beyond which will be irreversible consequences. Napa County needs to be a leader and make the difficult decisions that will ensure a future for both its residents as well as its wine industry. The climate is heating up, and very possibly one day, that climate will no longer be conducive for growing grapes, but the trees might still be standing if preserved now. Aggressively protecting the forests, trees and watersheds today in Napa County can help curtail global warming and protect the future of Napa County's citizens and wine industry.

Please do not approve this weak draft ordinance as it is, but send it back to the Board of Supervisors asking for a stronger ordinance that will make a difference.

Thank you for your consideration in this matter.

Sincerely,

Lisa Hirayama

From: Jim Bushey <JBushey@PPIEngineering.com>

Sent: Tuesday, February 19, 2019 11:48 AM

To: joellegPC@gmail.com; Whitmer, David <Dave.Whitmer@countyofnapa.org>;
anne.cottrell@lucene.com; Mazotti, Andrew <Andrew.Mazotti@countyofnapa.org>;
JeriGillPC@outlook.com

Cc: Wagenknecht, Brad <BRAD.WAGENKNECHT@countyofnapa.org>; Gregory, Ryan
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Bordona, Brian <Brian.Bordona@countyofnapa.org>; Rachel LeRoy <RLeRoy@PPIEngineering.com>;
Annalee Sanborn <ASanborn@PPIEngineering.com>

Subject: PPI Comments for Planning Commission re: Draft Watershed Ordinance

Dear Planning Commissioners:

Attached please find PPI Engineering's comment letter regarding the Draft Watershed and Tree Protection Ordinance. We thank you in advance for consideration of our comments.

Regards,
Jim

James R. Bushey, P.E.

jbushey@ppiengineering.com

President | PPI Engineering, Inc.

2800 Jefferson Street

Napa, CA 94558

(707) 253-1806

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VINEYARD DESIGN
EROSION CONTROL
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2800 Jefferson Street
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February 19, 2019

Planning Commission
County of Napa
1195 Third Street, Suite 210
Napa, CA 94559

Re: Draft Watershed and Tree Protection Ordinance

Dear Planning Commissioners,

We have reviewed the Draft Watershed and Tree Protection Ordinance (“Draft Ordinance”) carefully and have several comments, concerns, and suggestions as outlined below.

I. Section 18.108.020, Subsection C: Vegetation Retention Requirements

We first note that the language of this section (a portion copied below) is consistent with the language that has been found for many years within Section 18.108.027 that applies vegetation retention (also known as the “60/40 Rule”) to parcels within municipal watersheds. We have three main concerns with this.

C. Vegetation Retention Requirements. A minimum of seventy percent vegetation canopy cover as configured on the parcel existing on June 16, 2016, along with any vegetation understory, or when vegetation consists of chaparral and shrublands without tree canopy, a minimum of forty percent of the chaparral and shrublands vegetation shall be maintained as part of any use involving earth-disturbing activity...

1. Why is the June 16, 2016 aerial photo chosen when it is before the 2017 fires?

The vegetation composition in many burned areas has changed dramatically, and although we understand the goal of preserving tree canopy, we do not understand the use of the 2016 aerial photo. Using this photo will have little impact on non-burned areas but could have large impacts on parcels that burned. When native California vegetation is burned, the natural ecological succession is for grasses and forbs to return immediately, brush and shrubs to grow in the succeeding years, and trees to return slowly and replace the brush. It could take many years for the trees that have died as a result of the fire to return. In the meantime, the use of the 2016

photo will result in preservation of areas that do not contain tree canopy. We understand that more recent post-fire aerial photos have been taken, and should be used to ensure we are actually preserving the resources that exist.

2. Is this language stating that both the 2016 aerial photo and the 2016 parcel lines must be used for these calculations?

In the application of the same language to the municipal watersheds (Section 18.108.027), it has been the interpretation of Napa County staff that the portion of the sentence “as configured on the parcel existing on (date) ” implies that the vegetation shall be interpreted from an aerial photo taken on that day, and in addition the parcel lines must be those that existed on that date.

Tracking down these parcel lines is often an onerous task. Changes in a parcel’s boundaries from the June 2016 date to the date of this letter about 1.5 years later may not be difficult to track or trace, but as time progresses and these Conservation Regulations evolve through the years, it will be more and more difficult to do this. To apply for a permit in a municipal watershed we must obtain 1993 parcel lines, which means hiring a licensed surveyor to research County records, digitize the data they find, and make interpretations of old maps and documents as needed. Doing this for every project and permit in this County going forward is needlessly burdensome on the Applicant.

Therefore, we recommend the language of Section 18.108.020 (C) be clarified regarding whether or not 2016 parcel lines will be used for these calculations in perpetuity, and our recommendation is that the parcel as of the date of the application be utilized.

3. As currently written, Section 18.108.020 (C) applies to the entire County and creates an internal conflict with Section 18.108.027 for municipal water supply drainages. The relevant text of Section 18.108.020 (A) is copied in below:

18.108.020 - General provisions.

A. Applicability. These regulations shall apply to all zoning districts within the county of Napa and to all uses that may involve earthmoving activity permitted in such districts, with or without use permits, except as may be specifically provided in this chapter. In the event of conflicts among the regulations in this chapter and those elsewhere in this title, the regulations in this chapter shall prevail except where specifically noted otherwise in this chapter.

Section 18.108.020 (A) notes that the section applies to all zoning districts within the County of Napa. The specifics of subsection (C) for calculation of vegetation retention, notably the use of a later aerial photo, make it inconsistent with the methods for calculating vegetation retention discussed in Section 18.108.027 for municipal drainages. However, as it is currently written the

new Section 18.108.020 applies to both municipal and non-municipal drainages. Vegetation retention should not be calculated from two different aerial photos (1993 & 2016/current) and two sets of parcel boundaries (1993 & 2016/current) for the same parcel or project. The logistics of attempting to meet both 1993 and 2016/current requirements for the same parcel in a municipal watershed would be very difficult to analyze and document. Therefore, we recommend the following addition to Section 18.108.020 (A) to clarify that the use of 2016/current aerial photos should apply only to areas outside of municipal watersheds:

“A. Applicability. These regulations shall apply to all zoning districts within the county of Napa outside of sensitive domestic water supply drainages and to all uses that may involve earthmoving activity permitted in such districts...”

II. Section 18.108.020, Subsection D: Vegetation Removal Mitigation

The following section was added to the Draft Ordinance:

D. Vegetation Removal Mitigation. The removal of any vegetation canopy cover shall be mitigated by permanent replacement or preservation of comparable vegetation canopy cover, on an acreage basis at a minimum 3:1 ratio. The location for replacement or preservation may be prioritized as follows:

1. Replacement or preservation shall first be accomplished on-site on lands with slopes of thirty percent or less and outside of stream and wetland setbacks.
2. If sufficient vegetation canopy cover to achieve the 3:1 ratio in full or in part cannot be accomplished under subsection (D)(1) of this section, on-site preservation or replacement may occur on slopes greater than thirty one percent and up to fifty percent in areas that result in the highest biological and water quality protections as determined by the director.
3. If sufficient vegetation canopy cover to achieve the 3:1 ratio in full or in part cannot be accomplished under subsections (D)(1) and (D)(2) of this section, off-site replacement or preservation may occur if it is within the same watershed and the habitat is of the same or better quality as determined by the director.
4. Replacement of vegetation canopy cover may occur within stream setbacks and be applied to the 3:1 preservation ratio where consistent with Section 18.108.025 (D) as determined by the director.

1. Why is the location for replacement or preservation discussed in numbers 1 through 4 of this section inconsistent with direction given by the Board of Supervisors on January 29, 2019?

The Board directed staff to allow onsite preservation on areas over 30% slope but outside of stream setbacks. This section creates a system of prioritization of preservation areas that is directly in conflict with the Board's direction. Furthermore, the prioritization of onsite preservation gives ultimate discretion to the director to allow or disallow onsite preservation in different slope ranges, or even offsite preservation as a last option, with no discussion of the criteria that will be used by the director in making these important decisions.

2. Is 3:1 mitigation really necessary in light of the 70% canopy retention mandated in Section 18.108.020 (C)?

Incorporated herein by reference and attached to this letter is a version of PPI Engineering's PowerPoint presentation that will be presented to the Planning Commission on February 20, 2019; the version attached to this letter contains more text explaining the slides than what will be shown to the Planning Commission, which will be explained verbally.

As noted in our analysis and presentation, once 70% tree canopy retention has been applied to a parcel, a 3:1 mitigation ratio has almost been met. A 70% retention rate is the same as a 2.3:1 ratio, while a 75% retention rate is the same as a 3:1 ratio. Once the tree retention has been calculated and applied to a parcel, it seems duplicative to then require almost the same mitigation on top of that. In light of the confusing and dangerously vague wording provided in this section for the prioritization of mitigation areas, we would respectfully request the deletion of subsection D altogether. The vegetation retention calculations for tree and shrub canopy retention are a tried-and-true method of ensuring tree preservation and watershed protection that have been used in municipal watersheds for years.

III. Section 18.108.025, Subsection B: Setback Requirements

1. We note the deletion of the following text in the proposed Draft Ordinance:

B. Setback Requirements. In addition to any requirements of the floodway and floodplain regulations set forth in Title 16, construction of main or accessory structures, earthmoving activity, grading or removal of vegetation or agricultural uses of land (including access roads, avenues and tractor turnaround areas, or other improvements necessary for ongoing agricultural operations) as defined by Section 18.08.040 shall be prohibited within the stream setback areas established below unless specifically permitted

in subsection (E) of this section, exempt pursuant to Section 18.108.050, ~~or authorized by the commission through the granting of an exception in the form of a use permit pursuant to Section 18.108.040:~~

Section 18.108.025 adds 35-foot setbacks from ephemeral or intermittent streams and 50-foot wetland setbacks. Although the scenario may not come up often, we have seen parcels that have only one access point directly adjacent to a stream or wetland. If access to a parcel is cut off by the proposed new setbacks, then there should be a recourse for a property owner. In that instance, it would be appropriate for a use permit to allow an exception to the setback, which has been struck from the last line of the Draft Ordinance. We respectfully request that the use permit option remain in place.

2. The language in Section 18.108.025 (B), Item 4 has been changed as follows:

4. In the case of those specific streams identified in Resolution No. 94-19, the stream setbacks shall be the distances set forth in subsections (B)(1), (2) and (3) of this section or the vegetation outboard dripline ~~of upper canopy vegetation~~ at the time of replanting, redevelopment, or new agricultural activity, whichever is greater.

The change from “outboard dripline of upper canopy vegetation” to “vegetation outboard dripline” is vague and changes the intent of this sentence. The stream setbacks for the streams identified herein have always been either a set distance based on slope or the edge of the riparian habitat (in the instance where the riparian habitat would not be sufficiently protected by the slope-based setback). Riparian habitat was appropriately identified as “outboard dripline of upper canopy vegetation” in the original wording. The change to “vegetation outboard dripline” is problematic because it no longer references riparian habitat. Technically a blade of grass or a shrub is vegetation. This proposed change is so vague it may actually minimize the protection of riparian habitat for the streams identified therein, and we encourage the County to return to the original language here.

IV. Section 18.108.027: Sensitive Domestic Water Supply Drainages

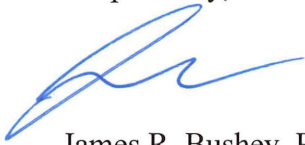
For parcels that have previously maximized their development opportunities under the 60/40 Rule, we would like clarification on how the County will view the parcel in light of the increase in tree canopy retention from 60% to 70%. Because the ordinance applies only to new projects, will these parcels not be considered in violation? Or will these parcels be considered legal non-conforming since the application of the 60/40 Rule has never been tied to a specific project or application, but to the parcel itself?

V. Section 18.108.060: Slope Regulations

We thank you for keeping the exemption in subsection 3.a. for small areas of 30% to 50% slope to be included within larger cleared or graded areas, as this is an extremely important part of ensuring consistent and logical application of the Conservation Regulations.

Thank you in advance for consideration of these issues.

Respectfully,



James R. Bushey, P.E.
President



Rachel LeRoy
Vice President

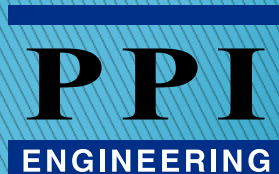


Annalee Sanborn
Project Manager

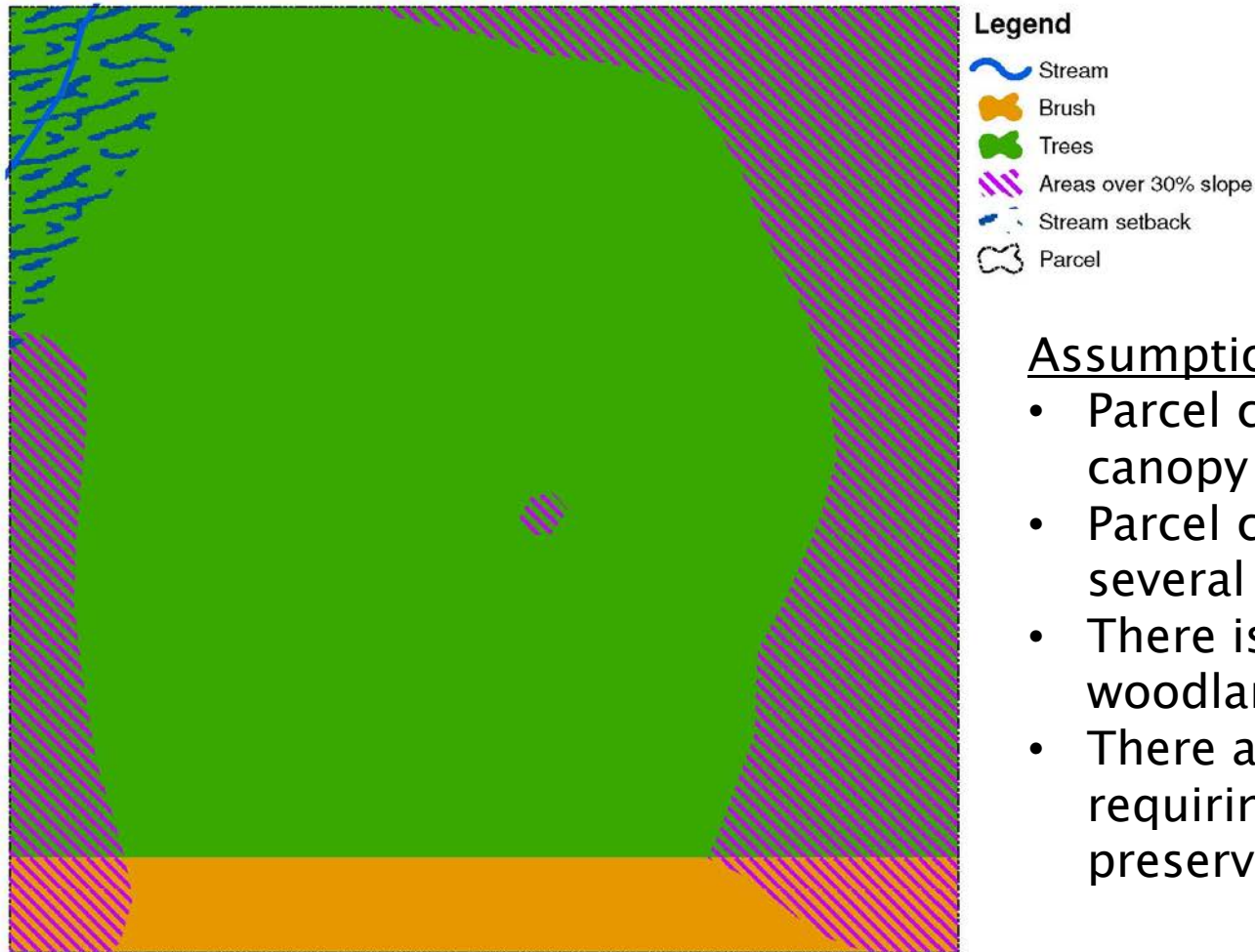
cc: Board of Supervisors
Minh Tran
David Morrison
Brian Bordona

Analysis of Proposed Water Quality & Tree Protection Ordinance

Various Scenarios



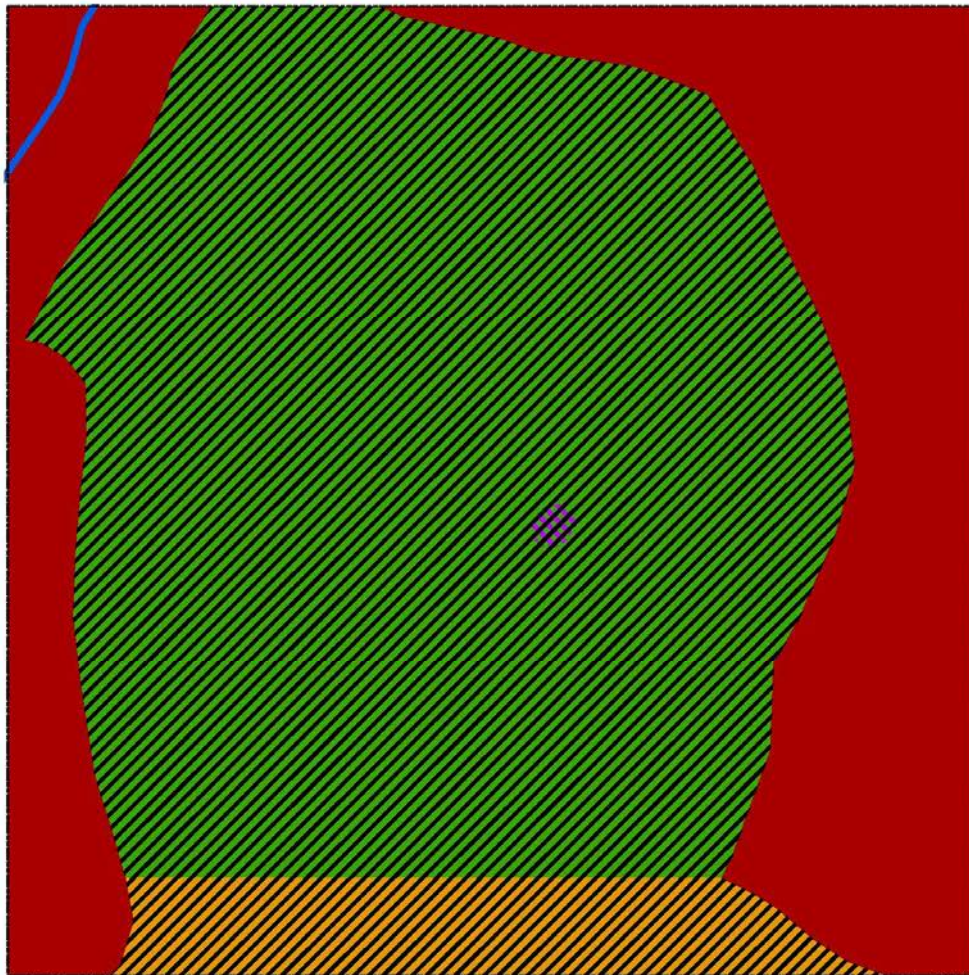
Hypothetical 10-acre Parcel on the West Side of the Napa Valley



Assumptions:

- Parcel contains 90% tree canopy cover
- Parcel contains one stream and several areas of over 30% slope
- There is 1 acre of oak woodland on the property
- There are no other constraints requiring mitigation or preservation

Scenario 1: Parcel under Current Policies



Legend

- Developable area
- Undevelopable area
- Stream
- Over 30% slope
- Brush
- Trees
- Parcel

On the 10-acre parcel under current policies:

7.0 acres of developable area

Scenario 2: Parcel with 70% Tree Canopy Retention



On the 10-acre parcel with the addition of 70% tree canopy retention:

3.4 acres of developable area

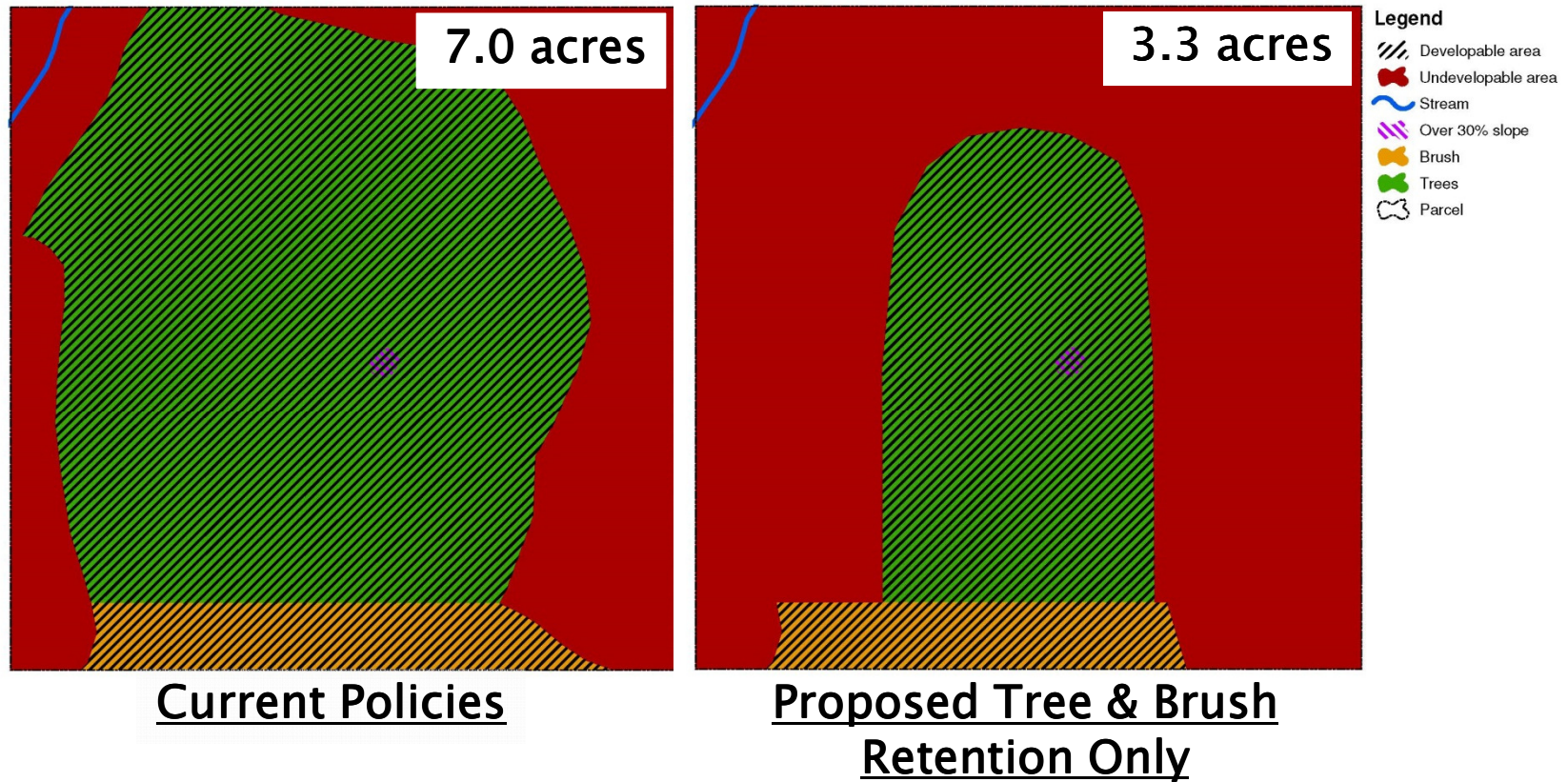
Scenario 3: Add 40% Brush Retention to Previous Scenario



On the 10-acre parcel with the addition of 70% tree canopy retention & 40% brush retention:

3.3 acres of developable area

Parcel Comparison with 70% Tree & 40% Brush Retention



7.0 acres of developable area vs. 3.3 acres, a 53% reduction

70% tree retention = 2.3 to 1 mitigation

In this example, these two constraints alone result in preservation of 67% of the parcel (vs. 6% of the parcel under current policies due to oak woodland)

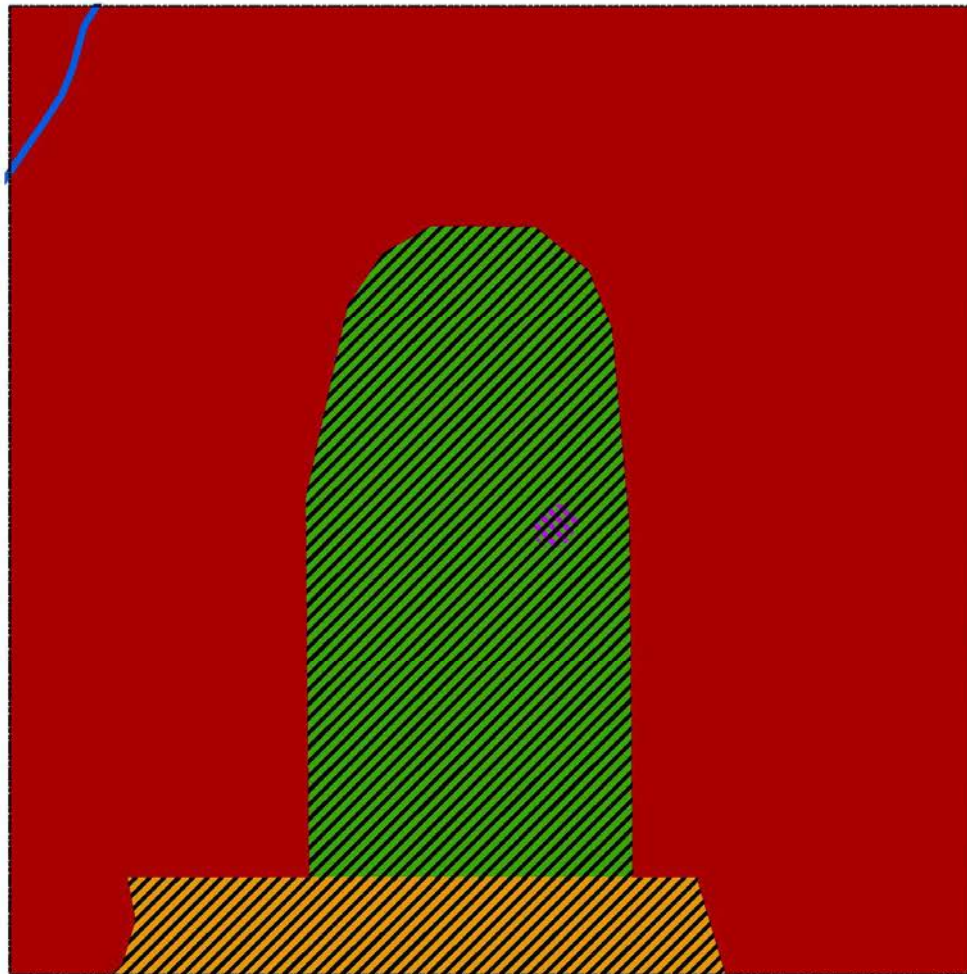
Scenario 4: Add 3:1 Tree Mitigation to Previous Scenario



On the 10-acre parcel with the addition of 70% tree canopy retention, 40% brush retention, and 3:1 tree mitigation:

2.8 acres of developable area

Scenario 5: 3:1 Tree Mitigation Outside of Stream Setbacks



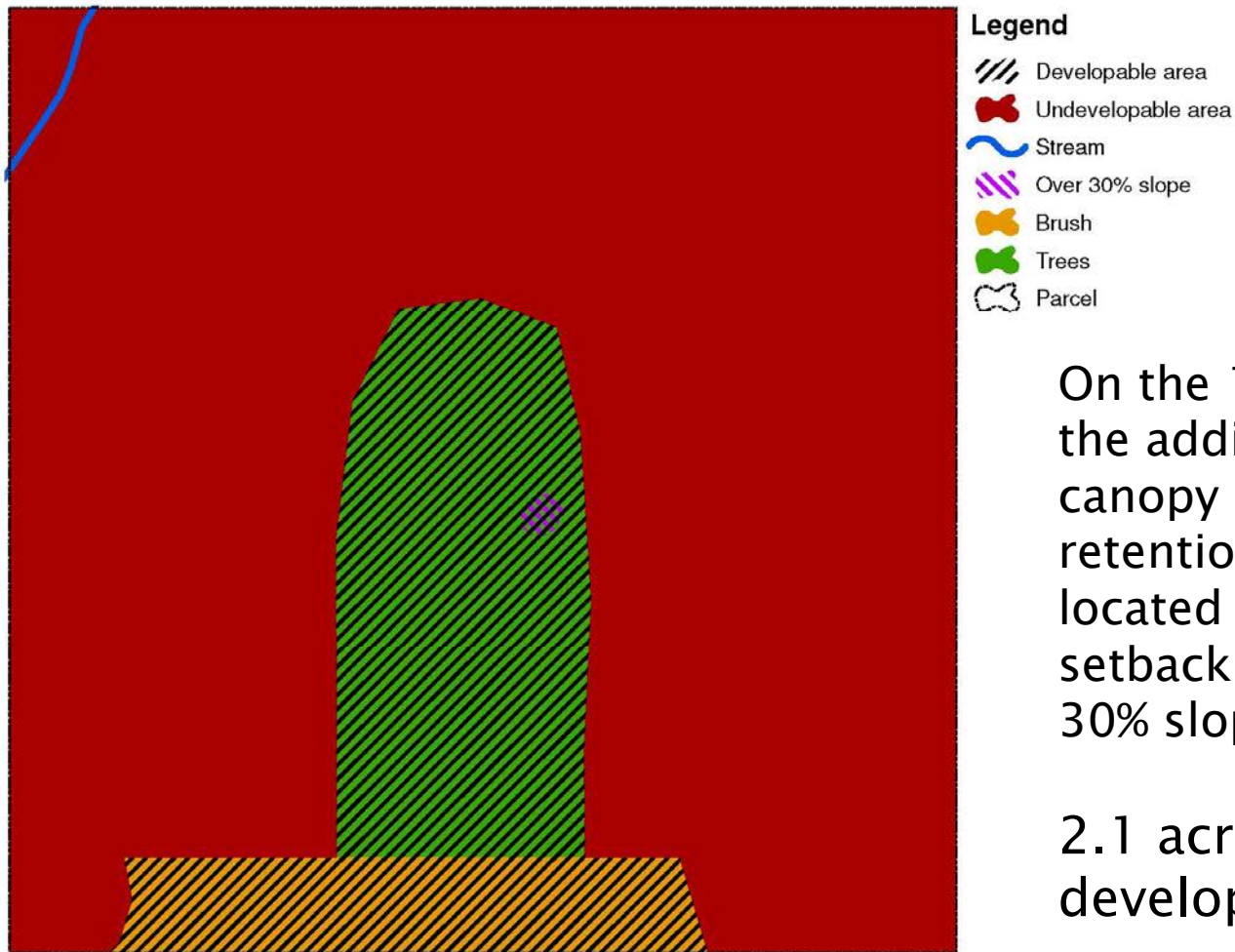
Legend

- Developable area
- Undevelopable area
- Stream
- Over 30% slope
- Brush
- Trees
- Parcel

On the 10-acre parcel with the addition of 70% tree canopy retention, 40% brush retention, 3:1 tree mitigation now located outside of stream setbacks:

2.7 acres of developable area

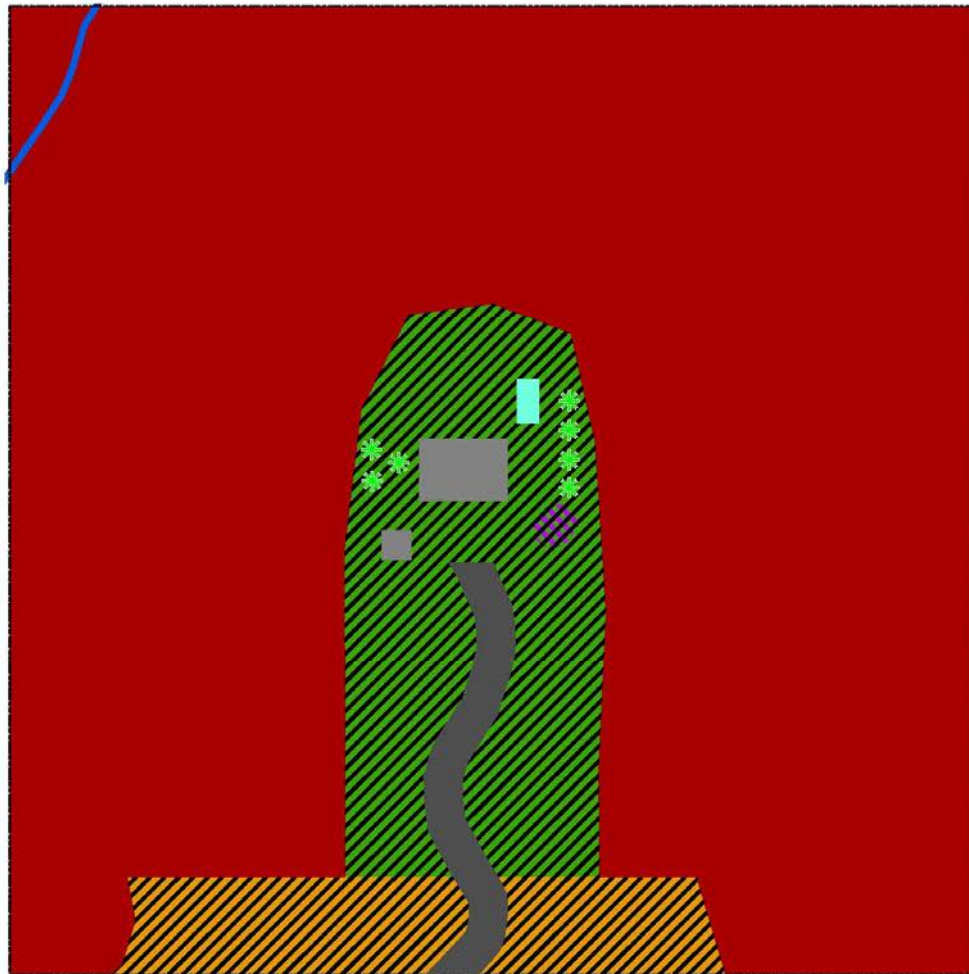
Scenario 6: Preservation Must be Outside Stream Setbacks and on Areas Less Than 30% Slope



On the 10-acre parcel with the addition of 70% tree canopy retention, 40% brush retention, 3:1 tree mitigation, located outside of stream setbacks & in areas under 30% slope:

2.1 acres of developable area

Scenario 6: Preservation Must be Outside Stream Setbacks and on Areas Less Than 30% Slope



Legend

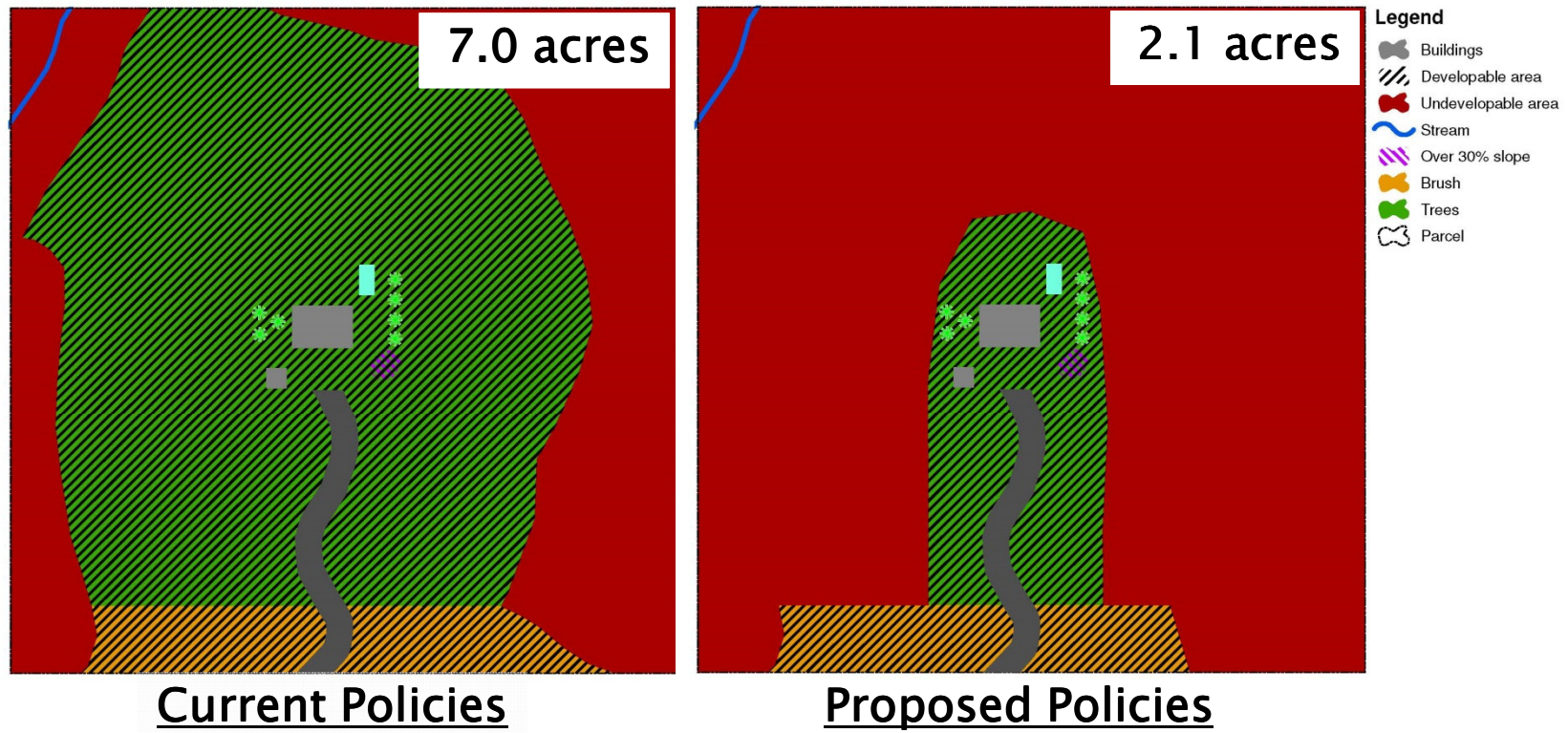
- Buildings
- Developable area
- Undevelopable area
- Stream
- Over 30% slope
- Brush
- Trees
- Parcel

For scale, a driveway and 2,500 square foot house were added.

On the 10-acre parcel with the addition of 70% tree canopy retention, 40% brush retention, 3:1 tree mitigation, located outside of stream setbacks & in areas under 30% slope:

2.1 acres of developable area

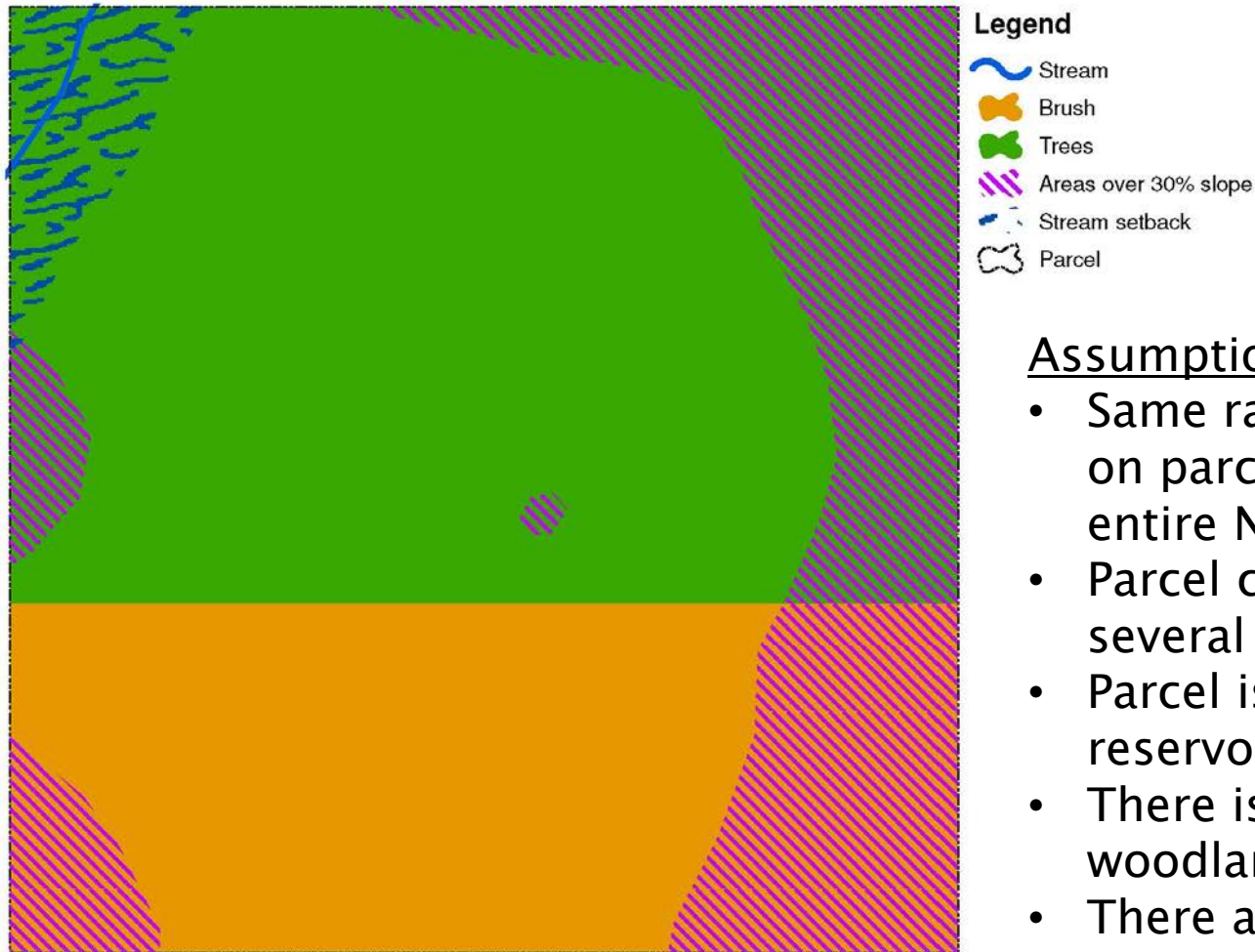
Parcel Comparison: West Side



7.0 acres of developable area vs. 2.1 acres, a 70% reduction

This simplified example does not include other constraints which could further reduce the development area (i.e. special-status plants & animals, additional streams, wetlands, archeological sites, slope instability, access issues, viewshed restrictions, etc.)

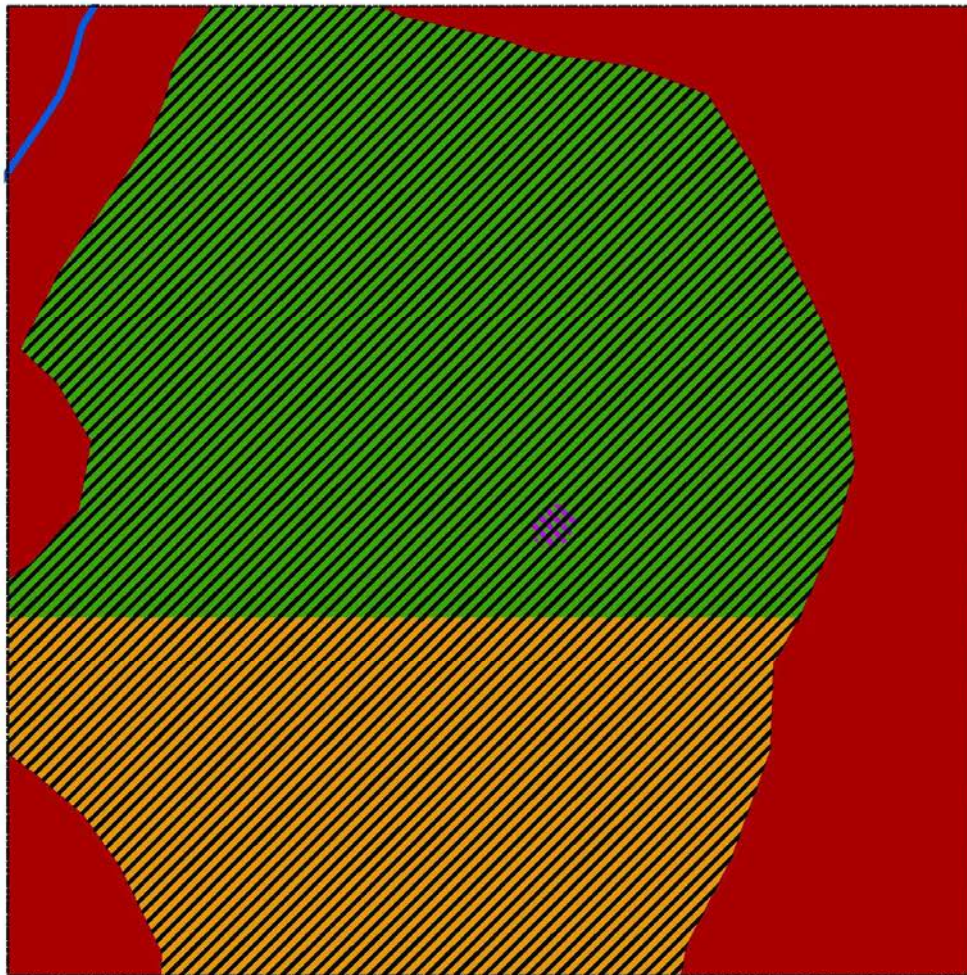
Hypothetical 10-acre Parcel on the East Side of the Napa Valley



Assumptions:

- Same ratio of trees and brush on parcel as calculated for entire Napa County
- Parcel contains one stream and several areas of over 30% slope
- Parcel is not in a municipal reservoir watershed
- There is 1 acre of oak woodland on property
- There are no other constraints requiring mitigation or preservation

Scenario 1: Parcel under Current Policies



Legend

- Developable area
- Undevelopable area
- Stream
- Over 30% slope
- Brush
- Trees
- Parcel

On the 10-acre parcel under current policies:

7.0 acres of developable area

Scenario 2: Parcel with 70% Tree Canopy Retention



On the 10-acre parcel with the addition of 70% tree canopy retention:

4.5 acres of developable area

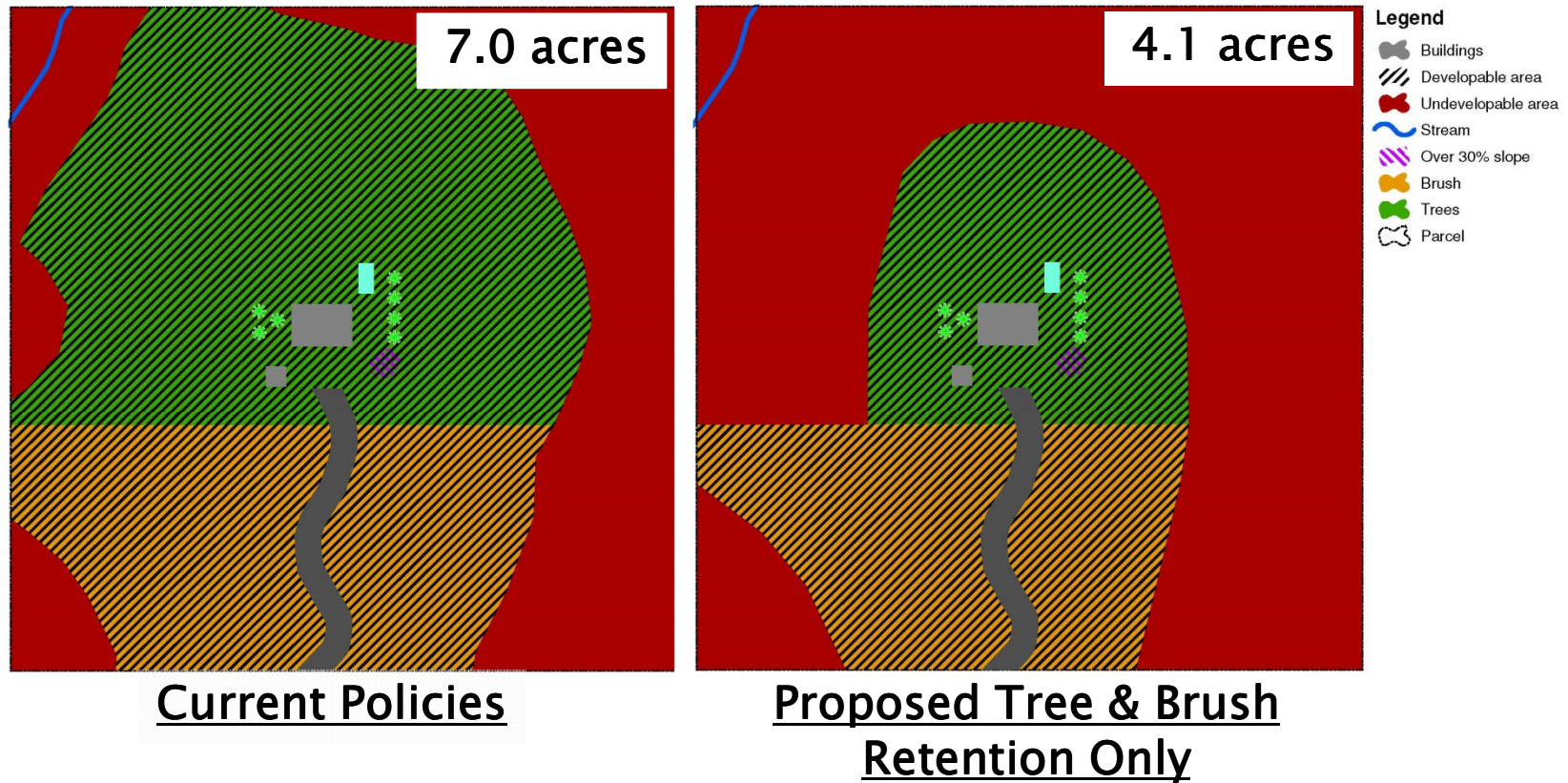
Scenario 3: Add 40% Brush Retention to Previous Scenario



On the 10-acre parcel with the addition of 70% tree canopy retention & 40% brush retention:

4.1 acres of developable area

Parcel Comparison with 70% & 40% Retention

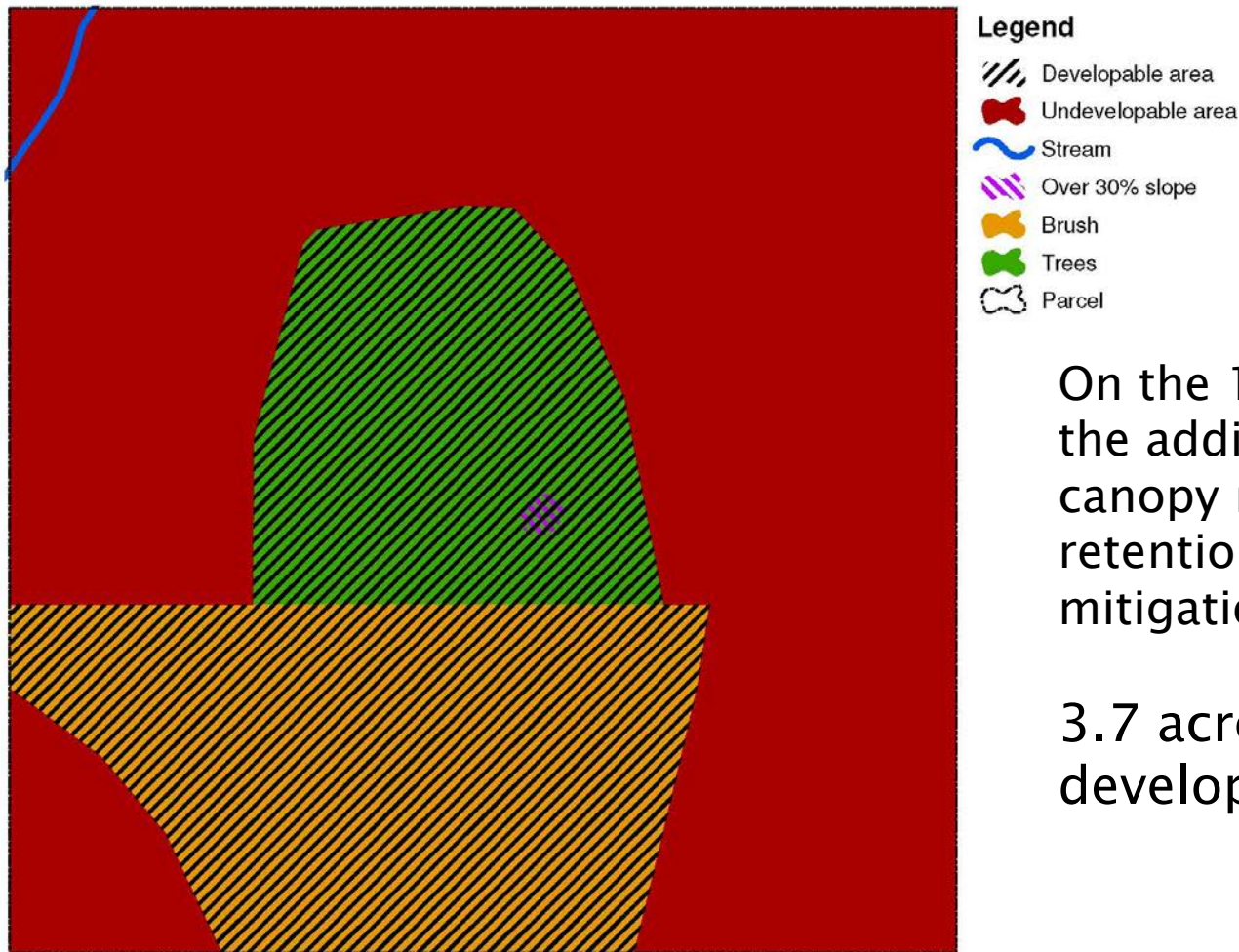


7.0 acres of developable area vs. 4.1 acres, a 41% reduction

70% tree retention = 2.3 to 1 mitigation

In this example, these two constraints alone result in preservation of 59% of the parcel (vs. 6% of the parcel under current policies due to oak woodland)

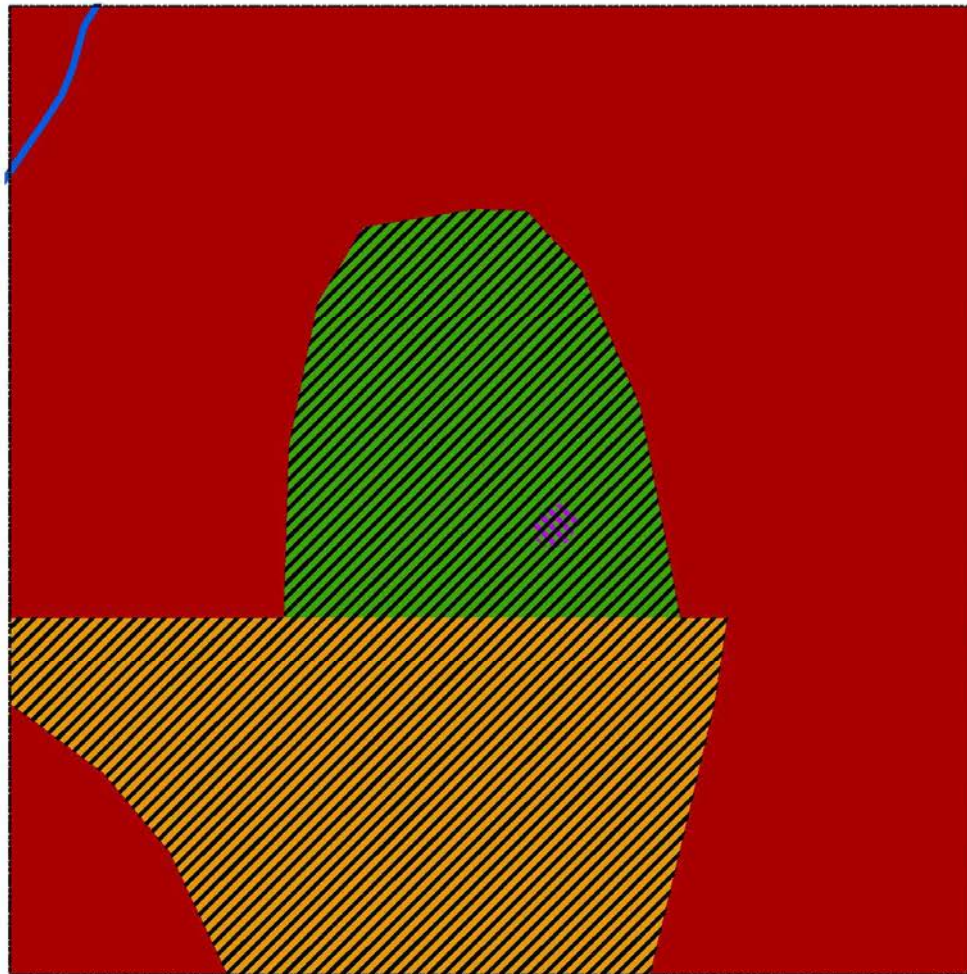
Scenario 4: Add 3:1 Tree Mitigation to Previous Scenario



On the 10-acre parcel with the addition of 70% tree canopy retention, 40% brush retention, and 3:1 tree mitigation:

3.7 acres of developable area

Scenario 5: 3:1 Tree Mitigation Outside of Stream Setbacks



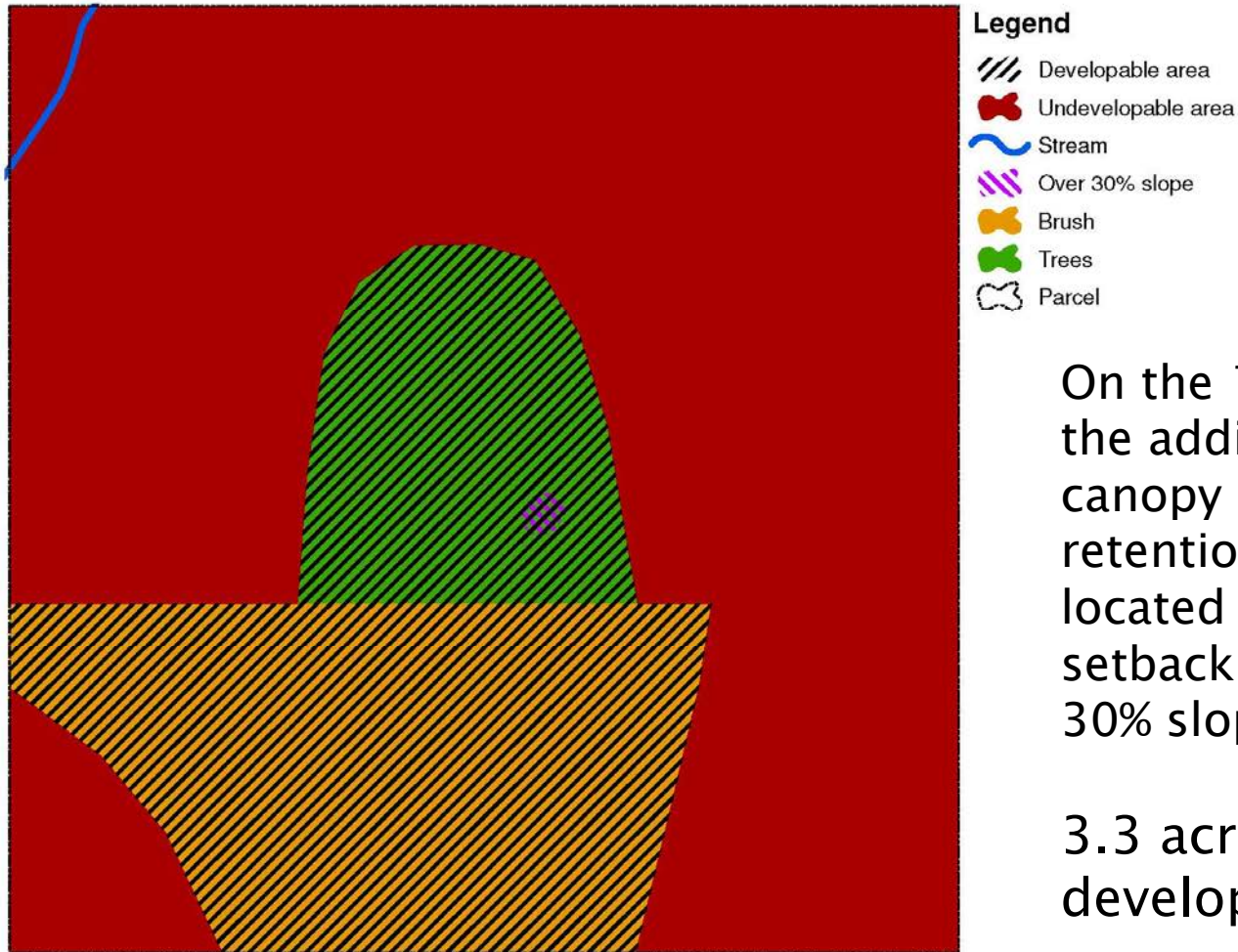
Legend

- Developable area
- Undevelopable area
- Stream
- Over 30% slope
- Brush
- Trees
- Parcel

On the 10-acre parcel with the addition of 70% tree canopy retention, 40% brush retention, 3:1 tree mitigation now located outside of stream setbacks:

3.6 acres of developable area

Scenario 6: Preservation Must be Outside Stream Setbacks and on Areas Less Than 30% Slope



On the 10-acre parcel with the addition of 70% tree canopy retention, 40% brush retention, 3:1 tree mitigation, located outside of stream setbacks & in areas under 30% slope:

3.3 acres of developable area

Scenario 6: Preservation Must be Outside Stream Setbacks and on Areas Less Than 30% Slope

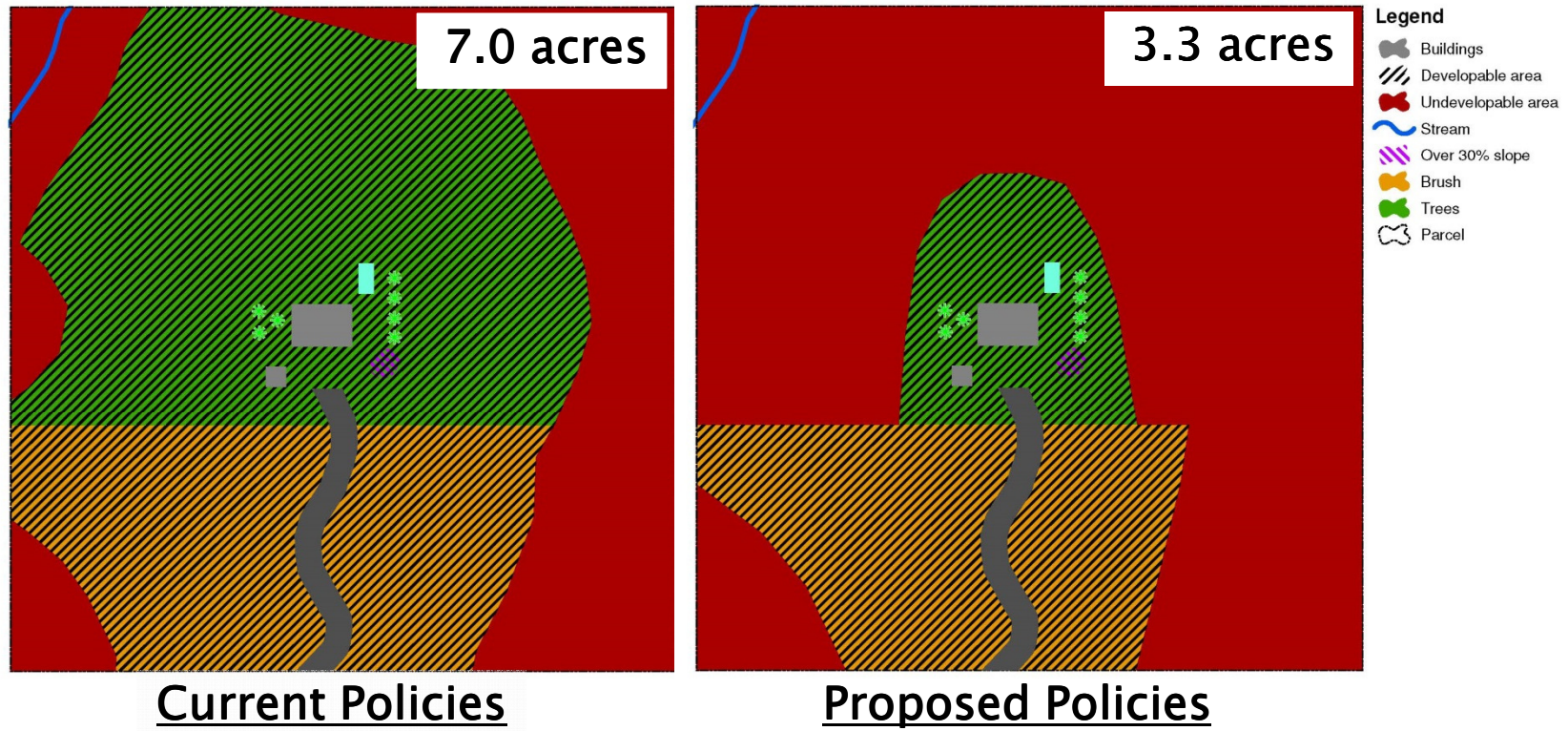


For scale, a driveway and 2,500 square foot house were added.

On the 10-acre parcel with the addition of 70% tree canopy retention, 40% brush retention, 3:1 tree mitigation, located outside of stream setbacks & in areas under 30% slope:

3.3 acres of developable area

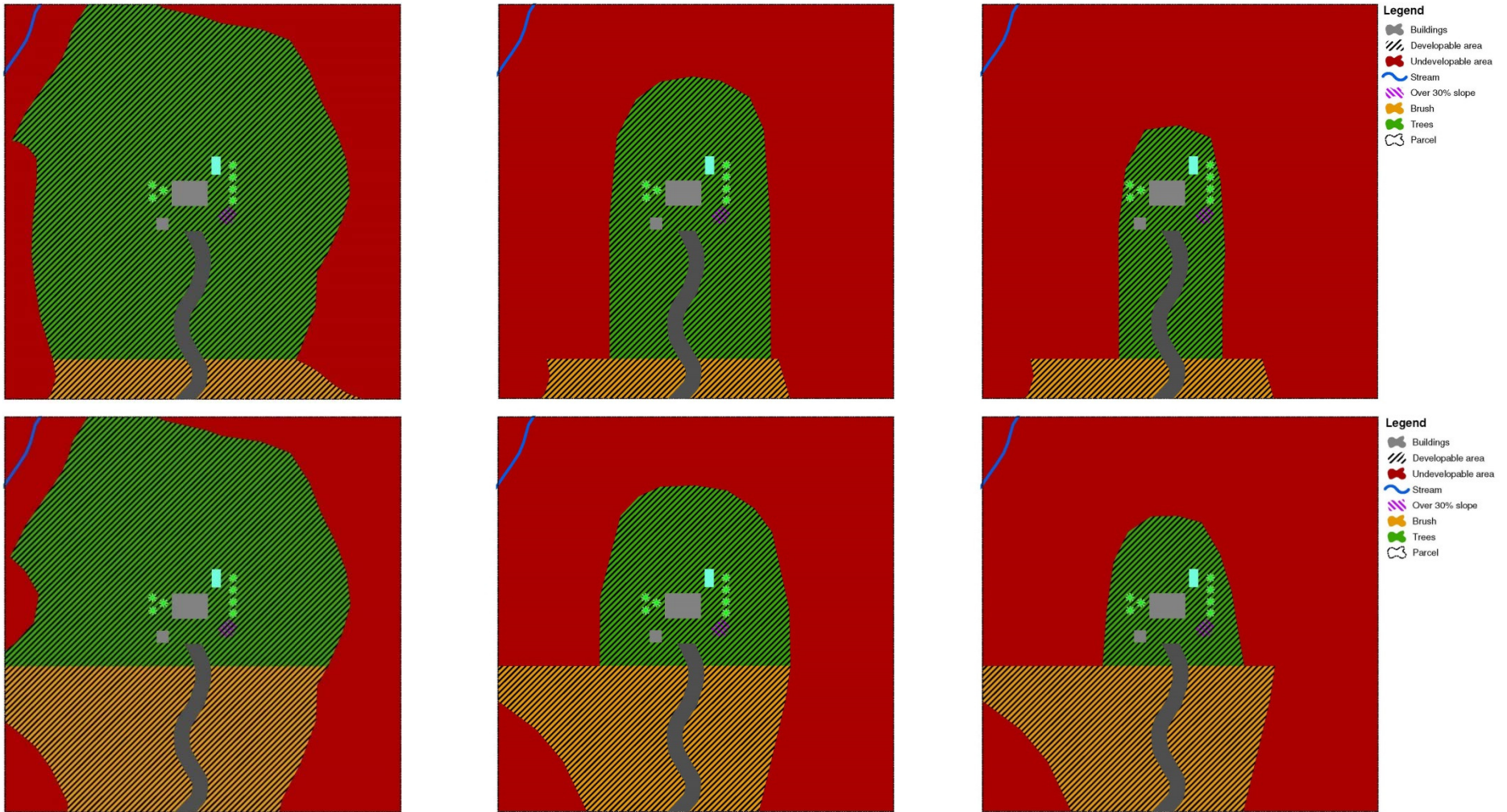
Parcel Comparison: East Side



7.0 acres of developable area vs. 3.3 acres, a 53% reduction

This simplified example does not include other constraints which could further reduce the development area (i.e. special-status plants & animals, additional streams, wetlands, archeological sites, slope instability, access issues, viewshed restrictions, etc.)

Is Requiring Mitigation in Addition to Retention Necessary?



Current Policies

Proposed 70% & 40% Retention

Proposed 70% & 40% Retention and 3:1 Mitigation

Bledsoe, Teresa

From: Morrison, David
Sent: Tuesday, February 19, 2019 12:12 PM
To: Fuller, Lashun; Bledsoe, Teresa; Thepkaisone, Cesselea
Cc: Bordona, Brian; Anderson, Laura
Subject: FW: NAPA COUNTY WATER QUALITY AND TREE PROTECTION ZONING ORDINANCE AND TEXT AMENDMENT
Attachments: CaliforniaOaksLetterNapaOrdinance2_19_19.pdf

From: Oak Staff <oakstaff@californiaoaks.org>
Sent: Tuesday, February 19, 2019 12:05 PM
To: Morrison, David <David.Morrison@countyofnapa.org>
Cc: Janet Cobb <jcobb@californiawildlifefoundation.org>
Subject: NAPA COUNTY WATER QUALITY AND TREE PROTECTION ZONING ORDINANCE AND TEXT AMENDMENT

Dear Mr. Morrison,

Please find attached a letter from the California Oaks program of California Wildlife Foundation for tomorrow's Planning Commission hearing. Please acknowledge receipt of this letter.

Thank you so much,

Angela

Angela Moskow
California Oaks Information Network Manager
California Wildlife Foundation/California Oaks
428 13th Street, Suite 10A
Oakland, CA 94612
www.californiaoaks.org
Office: (510) 763-0282
Mobile: (510) 610-4685



February 19, 2019

David Morrison, Napa County Planning, Building and Environmental Services Director
Napa County Planning, Building, and Environmental Services Department
1195 Third Street, Suite 210
Napa, California 94559

Transmitted via email: David.Morrison@countyofnapa.org

RE: NAPA COUNTY WATER QUALITY AND TREE PROTECTION ZONING
ORDINANCE AND TEXT AMENDMENT

Dear Mr. Morrison:

The California Oaks program of California Wildlife Foundation works to conserve oak ecosystems because of their critical role in sequestering carbon, maintaining healthy watersheds, providing wildlife habitat, and sustaining cultural values. We commend the county for drafting an ordinance to protect native trees. This letter's comments are restricted to the provisions of the ordinance that pertain to oak (members of *Quercus* genus) woodlands, highlighting problematic sections.

ECOSYSTEM CONSIDERATIONS

Vegetation retention requirements should include ecosystem considerations.

Section 2 of the proposed amendments to Section 18.108.020 (General provisions) of the Conservation Regulations of Napa County Code adds *C. Vegetation Retention Requirements* (page 9). California Oaks recommends that the section be expanded to include:

- Enhanced protections for valley and blue oaks.
- The prioritization of protection, maintenance, restoration, and monitoring of large blocks of savanna, woodland, and forests over maintenance, restoration, and enhancement of smaller, more isolated habitat patches.
- Avoidance of removal of actively used granary trees, raptor roosting, or nesting trees.

MITIGATION

Mitigation on slopes above thirty percent is not acceptable.

Section 2 of the proposed amendments to Section 18.108.020 (General provisions) of Chapter 18.108 (Conservation Regulations) adds *D. Vegetation Removal Mitigation*, which states (page 9): *The removal of any vegetation canopy cover shall be mitigated at a minimum ration of 3:1.* Among the locations for replacement or preservation, D. 2 on page 9 states that mitigation, through on-site preservation or replacement, may, in certain circumstances, *...occur on slopes greater than thirty one percent and up to fifty percent.* This provision should be removed. Mitigation measures must substantially lessen the environmental impacts of a project. The provision that would allow mitigation to take place on a slope that is not subject to development does not adhere to the requirements of the California Environmental Quality Act (CEQA).

Mitigation for Greenhouse gas impacts of tree removal is deficient.

CEQA’s sole Greenhouse gas (GHG) focus is “the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions.” Net present value of GHG emissions forms the foundation of the state’s greenhouse reduction objectives, as well as the California Forest Protocol preservation standards. Every ton of carbon dioxide (CO₂) released into the atmosphere by oak woodland or forest conversion represents a measurable potential adverse environmental effect, which is covered by CEQA. Thus California requires the analysis and mitigation of greenhouse gas emissions associated with proposed oak woodland or forest conversions.

Project mitigation that is based on the preservation (“avoided conversion”) of existing natural lands does not adequately mitigate GHG emissions of natural lands conversion. Existing trees, understory, and soil conserved by the mitigation, do not, suddenly, upon the protections afforded by their conservation, sequester more carbon to mitigate impacted biomass GHG emission effects of the conversion. Further, the logic of equating an acorn or sapling planted to above-and belowground carbon sequestration of a tree that has been growing for many years is even more flawed. A mitigation oak tree planted today will not begin to sequester adequate carbon for many years.

Additional recommendations for mitigation.

It is essential that the measures for monitoring the success of mitigation be clearly stated and that strong enforcement also be delineated. We recommend that the following provisions, which are from Santa Barbara’s deciduous oak protection ordinance, be incorporated into Napa’s proposed regulations:

- A 15:1 mitigation ratio by replacement planting, or protection of naturally occurring oak trees between six (6) inches and six (6) feet tall on the lot.
- Naturally occurring valley and blue oak seedlings/saplings, growing on the lot and between six (6) inches and six (6) feet in height that are successfully protected and nurtured may be counted as replacement (mitigation) trees under the Program. (We suggest that this provision be extended to all oaks.)
- Replacement deciduous oak trees that are planted must come from nursery stock grown from locally-sourced acorns, or use acorns gathered locally, preferably from the same watershed in which they are planted. (We suggest that this provision be extended to all oaks.)
- If planting is done using acorns, the ratio of acorns to oak trees removed shall be a minimum of forty-five (45) acorns for every protected valley oak tree removed. Up to three (3) acorns may be planted in the same hole.
- Replacement deciduous oak trees shall be established in a location suitable for their growth and survival as determined by a qualified professional. (We suggest that this provision be extended to all oaks.)
- Valley oaks shall replace valley oaks removed and blue oaks shall replace blue oaks removed.

DEFINITION OF CANOPY COVER THAT WILL BE PROTECTED UNDER THE PROPOSED ORDINANCE

The draft ordinance states on page 7 that its scope includes oak woodlands:

This ordinance provides enhanced protection for these areas by preserving riparian habitat along stream corridors and wetlands and by protecting forest,

oak woodland, tree canopy, and shrubland; and

WHEREAS, this ordinance will protect forests, oak woodlands, and other native trees by requiring the permanent preservation or replacement of lost trees or preservation of comparable habitat at a 3:1 ratio and by establishing a framework for how preservation or replacement will be implemented so as to maximize environmental protections and benefits; and ...

The text from page 17 of the proposed changes to Napa County's Conservation Regulations, Section 6. Chapter 18.108.030 (Definitions), County Code speaks about canopy protections for contiguous forests:

“Vegetation canopy cover” means the crown area of a stand of trees (i.e., upper-story vegetation) in a natural stand of vegetation. For the purposes of this chapter, canopy cover is the collective cover of a grouping of trees **viewed from an aerial photograph of the latest edition on file with the department**, where the tree stand is continuous. Single trees are not considered canopy cover.

The proposed changes, above, address ecosystems in which there is a closed canopy, yet do not address oak woodlands, which are defined in state law (AB 242, Thomson, 2001) as follows:

“Oak” means any species in the genus *Quercus*.

“Oak woodlands” means an oak stand with a greater than 10 percent canopy cover or that may have historically supported greater than 10 percent canopy cover.

We are concerned that as this is written that oak woodlands will not receive protections under the proposed regulatory changes, only denser stands of trees. We also note that (7) on page 5 of the draft ordinance, states: “maintain the existing definition of tree canopy.” If the county’s intentions are to extend canopy protections to oak woodlands the current language in the proposed revisions is inadequate. We are available to assist the county in making the necessary revisions.

PROTECTIONS FOR NON-NATIVE TREES

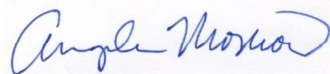
Page 7 of the ordinance states it will protect forests, oak woodlands, and other native trees, yet the suggested additions to County Code do not specify that the protections are specific to native trees. Given the ecological threats posed by non-native trees, we recommend the addition of language to reflect the exclusion of protections for non-native trees.

Thank you for your consideration of our comments.

Sincerely,



Janet Cobb
Executive Officer
California Wildlife Foundation



Angela Moskow
Manager, California Oaks Coalition



NAPA COUNTY
FARM BUREAU

February 12, 2019

Planning Commission
County of Napa
1195 Third Street, Suite 210
Napa, CA 94559

RECEIVED

FEB 19 2019

Napa County Planning, Building
& Environmental Services

RE: Watershed Protection Ordinance

Dear Planning Commissioners:

The Napa County Farm Bureau has been reviewing the current watershed protection ordinance and would like to request the following be added to the ordinance.

While Napa County's local CEQA Guidelines document that replants are exempt from CEQA review, County Code is silent on this point. We believe vineyard replanting programs should be expressly categorized as ministerial within the meaning of the California Environmental Quality Act and the State CEQA Guidelines.

We believe the following language should be added to Section 13, 18.108.90 – Requirements for Vineyard Replanting Programs, subsequent to subsection F:

G. Ministerial provisions; exception. It is the intent of the board of supervisors that the vineyard replanting programs shall be ministerial within the meaning of the California Environmental Quality Act and the State CEQA Guidelines. It is the further intent of the board of supervisors that the review of permit applications and the issuance of permits of such vineyard replanting programs shall be ministerial acts.

H. Interpretation and application. This chapter shall be interpreted, administered, and construed in light of the legislative intent expressed in Subsection G. If any provisions, sentences, or words in this chapter are ambiguous or capable of more than one (1) interpretation, staff shall interpret, administer, and construe them as conferring only ministerial authority. Staff shall not exercise personal judgment, special discretion or judgment, or personal, subjective judgment in deciding whether or how projects should be carried out, except in the case of discretionary permit applications.

I. Ministerial system of regulation; automatic repeal. It is the intent of the board of supervisors in enacting this chapter to establish and maintain a ministerial system of regulation for vineyard replanting programs, consistent with the strong policy direction in the general plan to support agriculture as the highest and best use of the land and not unduly complicate and

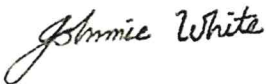
discourage vineyard development and agricultural grading and drainage. As a legislative matter, treating vineyard replanting programs as discretionary actions would be contrary to the legislative intent of this chapter. As a result, if for any reason a court of competent jurisdiction holds in a final order that the approval of a vineyard replanting program intended to be ministerial is, in fact, discretionary, the requirement for approval of vineyard replanting program or erosion control plan prior to vineyard replanting shall be automatically repealed without further action by the board of supervisors. A "final order" means an order, writ, judgment, or other finding that is no longer subject to modification or reversal on appeal. If this chapter is repealed by this subsection, vineyard replanting development shall be allowed and shall not require separate permitting. Nothing in this subsection is intended to affect any court order.

We request that this language be added to the ordinance in an effort to codify replants as ministerial within the meaning of the California Environmental Quality Act and the State CEQA Guidelines.

If you have any questions, please contact our office.

Thank you.

Sincerely,



Johnnie White
President
Napa County Farm Bureau

CC: Board of Supervisors
Minh Tran
David Morrison

Feb - 16 - 2019

Dear County of Napa Planning Commissioners:

On January 29 I attended the Napa County Board of Supervisors' Public Hearing where about 60 people like me had their three minutes of Free Speech to address the issue of improving the standards regarding the clearing of our watershed forests for the expansion of more vineyards. I told our story of living in Angwin and the suffering we have had from the clearing of land and the creation of a vineyard next to us. We are two old people in our 70s who had peace and harmony in our lives until vineyard development replaced the forest of trees next to our home.

Next to our home on Linda Falls Terrace is a five acre parcel that was purchased by a wealthy doctor and his wife from Florida for their retirement dream home and a vineyard. Evidently they felt this relatively flat piece of land would be more suitable for grape growing if they hauled in truck load after truck load of rocks and dirt to create a small hill for the new vineyard. In doing so they destroyed the small forest of trees adjacent to our home that served as a windbreak for us.

They hired Pina Vineyard Management Company as their contractor, and the presence of large earth moving machinery and tractors for vineyard development created a great amount of dust blowing onto our home. Then the vines were planted and men in white suits, gloves and face masks began spraying herbicides and pesticides that also blew onto our property and into our home. When I noticed our small fruit trees dying along our property line, I asked one of the men what they were using as chemicals, and he said, "We know what we are doing." Pina has never told us what they are spraying or when it would be sprayed. What is so secret about what they are doing?

When we bought our property there was a small ditch along the property line with this new neighbor that was never a problem for us. But once the shape of the neighbor's property was elevated with this small hill, additional water from that property was coming onto our property. I tried to raise our side of that ditch myself with rocks and dirt. At my age it was too much, so I had to hire help for this. But the runoff from next door was too much and rushed through our yard and patio into our garage. Even placing sandbags did not do the job.

In my speech to the Board of Supervisors, a staff person told the Board they were unaware of our problem and would have Code Enforcement look into it. Two weeks have passed and no one has contacted us. And now we have had this past week of heavy rain, and again this ditch has overflowed into our garage. I called one of the owners of Pina Vineyard Management, Mr. Johnny White, and he told me it was not water from their client's property but water from across the road from our home. This is not true. While some water comes from that side of the road, the only change has been from the increased water from the raised vineyard next door.

Going back to the Board of Supervisors hearing when I spoke, Johnny White and his partner Davie Pina also spoke to the Board. They are telling the Board of Supervisors that there are already too many rules in Napa County regarding vineyard development, and they ask that no new rules and no strengthening of old rules be done. They have also written letters to the editor expressing their same feelings. They have a conflict of interest since their business is to remove our watershed for more vineyards.

Some of these same people say there is no science to support stronger restrictions on vineyards. I can assure you that even though my property has no test tubes or Bunsen burners, our home is a living example of "science in action". Just come to visit us, and you can see for yourself. And no one from Napa County Code Enforcement has come to witness our problems caused by this new vineyard next door. Who is going to help us and others from similar problems?

Sincerely,

Ana Vigil Footman

630 Linda Falls Terrace, Angwin

94508

707-968-5390

RECEIVED

FEB 19 2019

Napa County Planning, Building
& Environmental Services

RECEIVED

FEB 18 2019

COUNTY OF NAPA
EXECUTIVE OFFICE

Dear Supervisor Bella Ramos,

I am contacting you with great concern about this Watershed Protection Ordinance to be heard in Napa County Courts very soon. This issue was voted down twice by the voters of Napa County, should there be such an issue that an ordinance can over turn the vote of the people that is of great concern. We as a community follow the proper channels of the County and State and are able to solve these issues. I am counting on you not to let a few bullies pull the county down a slippery slope of not getting their way in an election and trying to change what the vote is to fit their own interest. I would like my voice heard, what will happen with my property? Will my taxes go down when I cannot use land I own? Will I have to follow an ordinance that is not in my best interest? Please be my voice and my family's voice.

Follow the due process and take it to the vote of the people. What if you had won the election by a small margin? What if district wanted to adopt an ordinance that would change the election you had won?

This is not how this works! When someone is in violation of the law, they are held accountable. Really? They will threaten you with a lawsuit? When that happens, I personally will gather friends, family, and neighbors to fight the right thing to do! Thank you for your time and support on this very important issue. Please feel free to contact me with questions or concerns on this issue.

Warm regards,
Bradley Kirkpatrick
5833 Pope Valley Road
Pope Valley,
Ca. 94567
707-965-2837

Whitney, Karita

From: Valdez, Jose (Louie)
Sent: Monday, February 18, 2019 12:18 PM
To: Whitney, Karita
Subject: FW: Comments on Napa County Water Quality and Tree Protection Zoning Ordinance

Sent with BlackBerry Work
(www.blackberry.com)

From: Ramos, Belia <Belia.Ramos@countyofnapa.org>
Date: Monday, Feb 18, 2019, 12:17
To: Valdez, Jose (Louie) <Jose.Valdez@countyofnapa.org>
Subject: FW: Comments on Napa County Water Quality and Tree Protection Zoning Ordinance

Sent with BlackBerry Work
(www.blackberry.com)

From: Jody Frease Meijer <jody.frease@gmail.com>
Date: Monday, Feb 18, 2019, 9:27 AM
To: Morrison, David <David.Morrison@countyofnapa.org>
Cc: Andreas Meijer <meijer.andreas@gmail.com>, joelleGPC@gmail.com <joelleGPC@gmail.com>, Whitmer, David <Dave.Whitmer@countyofnapa.org>, anne.cottrell@lucene.com <anne.cottrell@lucene.com>, Mazotti, Andrew <Andrew.Mazotti@countyofnapa.org>, jerigillpc@outlook.com <jerigillpc@outlook.com>, Wagenknecht, Brad <BRAD.WAGENKNECHT@countyofnapa.org>, Gregory, Ryan <Ryan.Gregory@countyofnapa.org>, Dillon, Diane <Diane.DILLON@countyofnapa.org>, Pedroza, Alfredo <Alfredo.Pedroza@countyofnapa.org>, Ramos, Belia <Belia.Ramos@countyofnapa.org>
Subject: Comments on Napa County Water Quality and Tree Protection Zoning Ordinance

Dear Mr. Morrison,

Please find below our comments on the proposed ordinance in advance of the February 20th, 2019 public meeting.

We are owners of a 17 acre Ag Watershed property, with an ECP currently under review by Napa County for a small vineyard. We are writing to express our concerns with the proposed Watershed Protection Ordinance, and particularly with some of the harsher recommendations from County staff.

First: any purchaser of land in the Ag Watershed is instructed that "the best and highest use" of the land is for agriculture. Land is assessed accordingly for property tax purposes, as it is considered valuable agricultural land. For many owners of hillside properties, the restrictions under consideration would make most agriculture--not just vineyards--difficult or impossible. It's not easy now, under current rules. In our own case, we nominally have 5-6 acres of growable land. By the time we worked our way through the ECP process, we're down to 2.5 gross, and about 1.9 net plantable acres. We believe that with the proposed rules we would be

down to nearly none, or so little as to make it financially unfeasible to continue. And we would have to abide by the same rules for any crop. We would be the owners of "agricultural land" on which agriculture is forbidden. Who will compensate smaller landowners like us for loss of market value of our properties? Will property tax assessments be adjusted accordingly?

Second: non-agricultural use of Ag Watershed land is also highly restricted, but does allow for construction of primary and secondary homes. County staff's recommendations would apply 30% slope rules to residential development as well as agriculture. We're lucky in that we already have a primary dwelling on the property. We have neighbors who do not. And our ability to add a second dwelling as allowed under current AW zoning rules would probably disappear. Building on hillside sites is already highly restricted and prohibitively expensive for many. Now it would be impossible in many cases. Again: who compensates landowners for loss in property value?

Historically, landowners who purchased their property under one set of rules have been grandfathered in when land use regulations change. What makes this situation so different? What emergency are we facing so dire that it requires destroying the land value of what is for many the biggest investment in their lives?

Third: the County recommends that any new regulations be applied immediately even to existing ECP applications that are under completeness review. Anyone who is in this situation has already spent tens of thousands of dollars just to be able to submit their ECP for bio and anthropological surveys, soils engineering and vineyard design. It can take the County months to review and respond to applications. We ourselves waited 4 months for County staff to respond with information needed by our engineer to prepare a completeness response. It would be exceptionally unfair to penalize those who followed every rule by forcing them to start over.

Again, what is the dire emergency here that would require this? Are current regulations really so dangerously inadequate? If so, shouldn't any hillside development completed under old rules be required to adapt to the new standards, including tearing out vineyards if necessary?

As a counterpoint, we attended a meeting with Napa County staff a few months ago in support of a neighbor who is trying to get a driveway design approved for his hillside property. In the meeting, staff mentioned that new road standards would soon be published, but explicitly assured our neighbor that he would not have to re-do his design to meet them. Why should a different rule be applied for this situation?

In the meantime, we sincerely hope that that County staff will diligently and speedily continue the review process while these regulations are under discussion. Given the staff recommendation, isn't there a perverse incentive here to delay review under the assumption that rules will change anyway?

As a final note: contrary to some of the more overblown rhetoric of Measure C proponents, those of us with Ag Watershed properties aren't all big corporations intent on raping the land. Many of us are small landowners who want to be able to enjoy our properties under the rules we agreed to when purchasing them. Again, sensible regulation makes sense. We'd submit that we already have it--and then some.

We understand that there is a desire to mend fences after the divisive battle over Measure C. What's perturbing is that this seems to be taking the form of simply implementing Measure C to great extent, against the expressed will of the voters. We sincerely hope that Napa County is responding to a documented environmental and scientific problem, and not a political one.

Respectfully submitted,
Jody and Andreas Meijer

Whitney, Karita

From: Valdez, Jose (Louie)
Sent: Monday, February 18, 2019 12:03 PM
To: Whitney, Karita
Subject: FW: Watershed Protection Ordinance

Sent with BlackBerry Work
(www.blackberry.com)

From: Ramos, Belia <Belia.Ramos@countyofnapa.org>
Date: Monday, Feb 18, 2019, 11:53
To: Valdez, Jose (Louie) <Jose.Valdez@countyofnapa.org>
Subject: FW: Watershed Protection Ordinance

Sent with BlackBerry Work
(www.blackberry.com)

From: Diana Solari <nvfrco@gmail.com>
Date: Saturday, Feb 16, 2019, 3:00 PM
To: JoellegPC@gmail.com <JoellegPC@gmail.com>, Whitmer, David <Dave.Whitmer@countyofnapa.org>, anne.cotrell@lucene.com <anne.cotrell@lucene.com>, Mazotti, Andrew <Andrew.Mazotti@countyofnapa.org>, jerigillpc@outlook.com <jerigillpc@outlook.com>, brad.wageknecht@countyofnapa.org <brad.wageknecht@countyofnapa.org>, Gregory, Ryan <Ryan.Gregory@countyofnapa.org>, Dillon, Diane <Diane.DILLON@countyofnapa.org>, Pedroza, Alfredo <Alfredo.Pedroza@countyofnapa.org>, Ramos, Belia <Belia.Ramos@countyofnapa.org>
Subject: Watershed Protection Ordinance

This county resident is opposed to this ordinance. For now, i believe the current conservation regulations will suffice. I would like to see a more in depth sharing of the research done in composing this ordinance before it becomes law.

Diana Solari
Business Manager
Napa Valley Farm & Ranch
ph: 707.942.4342
fx: 707.942.9502

Whitney, Karita

From: Valdez, Jose (Louie)
Sent: Monday, February 18, 2019 12:03 PM
To: Whitney, Karita
Subject: FW: Watershed Protection Ordinance. 2/20/19 at 9 AM

Sent with BlackBerry Work
(www.blackberry.com)

From: Ramos, Belia <Belia.Ramos@countyofnapa.org>
Date: Monday, Feb 18, 2019, 11:54
To: Valdez, Jose (Louie) <Jose.Valdez@countyofnapa.org>
Subject: FW: Watershed Protection Ordinance. 2/20/19 at 9 AM

Sent with BlackBerry Work
(www.blackberry.com)

From: Doug Wirth <douglaswirth@gmail.com>
Date: Saturday, Feb 16, 2019, 11:29 AM
To: Brad.Wagenknecht@napacounty.org <Brad.Wagenknecht@napacounty.org>, Ryan.Gregory@napacounty.org <Ryan.Gregory@napacounty.org>, Diane.Dillon@napacounty.org <Diane.Dillon@napacounty.org>, Alfredo.Pedroza@napacounty.org <Alfredo.Pedroza@napacounty.org>, Ramos, Belia <Belia.Ramos@countyofnapa.org>
Cc: Robert Wirth <rbwirth@wavecable.com>, Jim Wirth <jim.wirth@tricommercial.com>
Subject: Watershed Protection Ordinance. 2/20/19 at 9 AM

Dear Supervisors: My family owns land in extreme eastern Napa County near Berryessa Peak that would be adversely affected by the proposed Watershed Protection Ordinance. No justification has been advanced for the added restrictions on development of sloped land over 30%, setbacks from streams and more broadly defined wetlands, tree canopy retention of 70% on all unincorporated land, and tree removal mitigation of 3:1. Added restrictions in addition to CEQA and existing federal law are not necessary and will depreciate the value of landholdings. Land owners are better situated to determine the highest and best use of their land without interference from local authorities. I urge you to reject this ordinance when it comes before you for consideration. Thank you, Doug Wirth.
Sent from my iPhone

Bledsoe, Teresa

From: Morrison, David
Sent: Tuesday, February 19, 2019 1:08 PM
To: Fuller, Lashun; Bledsoe, Teresa; Thepkaisone, Cesselea
Cc: Anderson, Laura
Subject: FW: NVG Comments on Draft Water Quality & Tree Protection Ordinance
Attachments: NVG Promotes Protection of Ag Climate and Environment - Comments to Planning Commission 2.19.19.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

From: Molly Williams <mwilliams@napagrowers.org>
Sent: Tuesday, February 19, 2019 1:02 PM
To: Joelle Gallagher <joellegpc@gmail.com>; andrewmazotti@gmail.com; Dave Whitmer (WHITMER25@GMAIL.COM) <WHITMER25@GMAIL.COM>; Jeri Gill <JeriGillPC@outlook.com>; Anne Cottrell <anne.l.cottrell@gmail.com>
Cc: Tran, Minh <Minh.Tran@countyofnapa.org>; Morrison, David <David.Morrison@countyofnapa.org>; Bordona, Brian <Brian.Bordona@countyofnapa.org>; Pedroza, Alfredo <Alfredo.Pedroza@countyofnapa.org>; Wagenknecht, Brad <BRAD.WAGENKNECHT@countyofnapa.org>; Ramos, Belia <Belia.Ramos@countyofnapa.org>; Dillon, Diane <Diane.DILLON@countyofnapa.org>; Gregory, Ryan <Ryan.Gregory@countyofnapa.org>; Paul Goldberg <paul@bettinellivineyards.com>; Jennifer Putnam <JPutnam@napagrowers.org>; Valdez, Jose (Louie) <Jose.Valdez@countyofnapa.org>
Subject: NVG Comments on Draft Water Quality & Tree Protection Ordinance

Dear Napa County Planning Commissioners,

On behalf of NVG's Executive Committee and Industry Issues Chair, please find NVG's comment letter on the Draft Water Quality and Tree Protection Ordinance attached. Please feel free to reach out directly with any questions.

Best regards, Molly

MOLLY MORAN WILLIAMS • INDUSTRY AND COMMUNITY RELATIONS DIRECTOR
NAPA VALLEY GRAPEGROWERS • t: 707.944.8311 x118
www.napagrowers.org • [Facebook](#) • [Instagram](#)
Preserving & Promoting Napa Valley's World-Class Vineyards for Over 43 Years



Attention: Napa County Planning Commissioners
Napa County Planning, Building & Environmental Services Department
1195 Third Street, Suite 210, Napa, California
(707) 259-8757

Subject: NVG Promotes Protection of Ag, Climate, and Environment

Dear Napa County Planning Commissioners,

I write to you on behalf Napa Valley Grapegrowers, representing over 725 grower, vineyard manager, and associate members, with a shared mission of preserving and promoting Napa Valley vineyards. As an organization, we are rooted in education and, therefore, submit this letter to provide the County with ample context, in-the-field experience, and—where we feel it is needed—requests for clarification in order to promote smart policy decisions. In this way, we are happy to serve as a resource of information to the County and community members.

We also believe that it is important for the County to understand NVG's background and current level of engagement in advancing sustainability efforts in Napa County. Simply put, education in sustainability is NVG's 'bread and butter'; it is who we are as an organization. This is supported by the dozens of educational programs we deliver to Napa County growers each year centered on best farming practices. Through educational outreach, NVG advocates for preservation of ag land, responsible land stewardship, resource conservation, protection of water and air quality, preservation of habitat, respect for wildlife, and more. Our annual ROOTSTOCK Symposium, which has hosted over 2000 people, focuses on how better practices in the vineyard also make for better wine quality, and we are also the only organization in the country to host an Organic Winegrowing Conference, which happens bi-annually.

As we continue to look ahead and develop educational content, we see a real need for leadership when it comes to adapting Napa County vineyards to climate change. We view our involvement in this as embedded in NVG's mission and have already begun centering programming and educational tools on climate-smart farming techniques aimed at sequestering carbon and protecting soil health. Based on our experience, NVG believes that there are great gains to be had by continuing to improve how we as farmers manage lands, and that the protection and promotion of sustainable agricultural lands enhances the overall health of our local climate and environment. It is through this lens that NVG approaches any communitywide discussion related to conservation.

The Commission is now tasked with discussing proposed changes to Napa County's Conservation Regulations via the Draft Water Quality & Tee Protection Ordinance. Since their inception, the Conservation Regulations have been nationally recognized as landmark legislation, forward-thinking and progressive. They have been a point of pride for Napa County legislators and the grapegrowing community since 1991. Napa County's Conservation Regulations were not written overnight but were the result of many difficult discussions and significant public participation. To this end, we are grateful to the County

for the opportunity to comment on the Draft Ordinance and ask the County to consider the following areas of question and concern:

- Overlaying of proposed mandates
- Mitigation standards
- Limiting development footprint and pressures on existing ag land
- The Regional Water Board's Waste Discharge Requirements & other existing regulations
- Vineyards and carbon sequestration
- Economic impacts & the importance of protecting small farms, family operations and opportunities for young talent
- Additional clarifications

OVERLAYING OF PROPOSED MANDATES

NVG's Recommendations

The Board of Supervisors recognized during its previous discussion that many of the proposed standards listed in the Draft Ordinance work in conjunction with one another; therefore, it is important to piece requirements together in a thoughtful way. In doing so, NVG recommends the following:

- Strive for clarity in language and seek consistency with existing County and State regulations
- Promote responsible and sustainable vineyard development and protect existing ag land from pressures to yield to other types of development
- Vet proposed standards through the lens of maintaining site-specific flexibility
- Prioritize best biological and environmental outcomes
- Do not limit requirements to agricultural development; apply to all development
- Filter final recommendations through reference to specific goals--that is, clarify in what way new mandates improve upon what is already required
- Advocate for preservation of large, contiguous pieces of open space as opposed to fractured areas
- Continue to make time for those to weigh in whose livelihood may be impacted by these changes

Avoiding Fractured Development and Fractured Conservation Spaces

As currently drafted, NVG would like clarification that the combination of slope, canopy retention, and mitigation requirements will not inadvertently promote a more fractured development and conservation footprint. More fractured parcels lead to more roads, which are one of the greatest offenders when it comes to sediment erosion, and do not promote carbon sequestration efforts. Therefore, we do not want an unintended consequence of this proposed legislation to be that a road is allowed in areas that no longer allow for agricultural green spaces. This seems possible based on the list of exceptions included in the Draft Ordinance (*Page 17 Section 7*).

Avoiding Duplicative Standards

NVG would like clarification on how the 3:1 mitigation standard overlays with canopy retention in site-specific situations. For example, what would happen in the case of a completely forested property?

MITIGATION STANDARDS

Conservation Easements & Active River Restoration

As the County defines standards around mitigation, NVG encourages legislation that promotes Conservation Easements and active river restoration projects including on slopes above 30% and within stream setbacks.

Conservation Easements and river restoration projects have long been a part of Napa County's history of progressive conservation efforts and should be encouraged by the County as some of the most environmentally beneficial mitigation standards. On the surface, it may be tempting to dismiss these approaches as the 'easy way out' of doing other forms of mitigation, but this is far from the truth. While landowners may gain tax benefits as well as the ability to comply with mitigation requirements, these incentives exist because the process of planning for a Conservation Easement or completing an active river restoration project is actually very complex and requires giving up rights to development beyond what is included in the Draft Ordinance.

Conservation Easements provide the following advantages on top of existing and proposed regulatory limits on development:

- Regulations protecting open space are changeable via initiative or other legislative processes, whereas Conservation Easements are in effect in perpetuity
- While the Draft Ordinance includes a lengthy list of exceptions (Page 17 Section 7) to limitations on slopes over 30% and within stream setbacks (including allowances for roads and other structures), Conservation easements require giving up these rights along with all other development rights
- At no additional costs to taxpayers, Conservation Easements ensure that an entity (i.e. land trusts) takes over responsibility for management of the land, which means enhanced supervision and protection of biologically and environmentally beneficial factors including areas with riparian habitat and sensitive and biodiverse plant and wildlife species
- More resources are available to landowners via partnership with entities like land trusts to monitor and mitigate environmental risks inherent to an area's natural state i.e. natural sediment erosion or lingering effects of natural disasters

Regarding the inclusion of active river restoration as a mitigation technique within stream setback areas, Napa County should consider the success of efforts such as the Rutherford Reach Project as a model. We know that there are still various properties along the Napa River, where even where there is no current development, previous land uses and/or natural sediment erosion and invasive species have hindered the health of the waterway. In these cases, it would be beneficial for the County to approve of active river restoration as appropriate mitigation within stream setback buffer zones.

Returning to the issue of fractured properties—these are also less attractive to entities like land trusts who seek larger, contiguous parcels to place in Conservation Easements. Planning Commissioner's should vet mitigation standards through the lens of maintaining larger, contiguous vineyard and conservation spaces.

Mitigation & Fire Prevention

Since the 2017 wildfires, Napa County growers are—more than ever—attuned to the need for fire prevention strategies that include forest management and incorporation of defensible space on their properties. To this end, the County should also consider proposed mitigation requirements in the context of promoting fire prevention. As written, the Draft Ordinance's mitigation ratio is currently proposed at 3:1, (Page 9 Section 2) in conjunction with an associated tiering structure, which preferentially treat on-site versus off-site mitigation (Page 9 Section 2). NVG encourages the Planning Commission to vet Board

direction through the lens of fire-wise mitigation strategies, where simply increasing forest density on-site may not always be the preferred option.

Benefits of the Current Process: Site-specific Flexibility & Hierarchy Based on Biological Factors

As currently required, when an applicant submits a project proposal to the County, the pending ECP requires that a comprehensive survey be conducted to identify biological factors such as riparian corridors and the presence of native and/or sensitive species. This survey is conducted by County-approved experts and done throughout the property to determine the best possible footprint for the project. This site-specific approach has successfully changed project proposals for the better, where important biological factors were taken into consideration.

However, the current Draft Ordinance appears to remove some of this site-specific flexibility, by creating a hierarchy based on factors such as above or below 30% slope and on-site versus off-site, rather than on specific biological factors. NVG requests that the Planning Commission thoroughly vet this shift and encourages that the County instead base its hierarchy of protections on site-specific biological and environmental factors that also promote sustainable vineyard development.

LIMITING FUTURE DEVELOPMENT FOOTPRINT & PRESSURES ON AG LAND

Napa County must take a balanced, smart approach to growth. In doing so, NVG cautions the County from inadvertently putting existing ag land at risk. Napa County already claims some of the most restrictive development standards in the country. In reducing the over-all development footprint further, NVG has concerns that existing vineyard land will be forced to yield to other uses. See *Example 2* (attached) where the desire to build a winery or house could result in greater pressure to remove vines to comply with new, more restrictive standards. This means we could see an increase in ag land lost, even in the Ag Preserve, as an unintended consequence of expanding the 60/40 rule and other mandates countywide. In NVG's experience, where ag land is pitted against other uses, it is often the first to yield, and very unlikely to be restored. This would also go against broader climate action goals, as vineyards have inherent ability to sequester carbon, while structures do not.

Protecting Track 1 & 2 Replants

As Napa County makes changes to current Conservation Regulations, NVG strongly encourages codifying current protections for both Track 1 and Track 2 replants. We recommend that the County consider incorporating language into County Code, as drafted and recommended by Napa County Farm Bureau.

In addition to this, we'd like the Planning Commission to consider including language that specifically allows for replants utilizing the Track 1 process, and not significantly gaining in size. For example, NVG supports the allowance of landowners to change row orientation, remove terracing and restore hillslopes and make other changes that significantly improve the sustainability of the project without significantly changing the footprint.

Effects of New Processes on Properties on Land Zoned for Agriculture

NVG would like clarification from the County as to whether there would have to be a new permitting process instituted for flat, valley floor vineyards as a result of the Draft Ordinance. Previously valley floor properties without slopes could plant vineyards without going through the ECP process, as they are not in any way prone to sediment erosion. What would the application process and enforcement look like for properties such as this post-adoption of the Draft Ordinance, and does the County have the staffing and resources to handle this new process?

THE REGIONAL WATER BOARD'S WASTE DISCHARGE REQUIREMENTS (WDR) & OTHER EXISTING REGULATIONS

As Napa County develops the proposed Water Quality and Tree Protection Ordinance, NVG encourages decisionmakers to take into consideration the landscape of existing regulations to ensure consistency and lack of duplication to better facilitate compliance and enforcement.

As of July 2017, the Regional Water Board that oversees Napa County adopted new mandates for vineyards of 5 planted acres or more focused on increasing water security. Mandates include stream buffer zones, limitations to planting on hillslopes, watershed monitoring, and more. As of July 2018, Napa County growers were required to commit to enrolling and completing a certified farm plan with Water Board approved entity (i.e. LANDSMART, Fish Friendly Farming, or California Sustainable Winegrowing Alliance).

Napa County is not the only County where the Water Board is implementing a vineyard waiver to target sediment erosion. This is a statewide effort, with new rules being applied in counties across California. Furthermore, according to the Water Board, the stated purpose for the vineyard waiver, is not so much to prevent erosion from vineyards, which is covered by Napa County's current Conservation Regulations, but rather a means at capturing risks associated with rural roads that are often found on vineyard properties.

VINEYARDS AND CARBON SEQUESTRATION

There has been significant discussion with regard to the need to adapt Napa County to climate change, and NVG believes that ag land has a valuable role to play in achieving the County's collective climate goals. One of the greatest environmental benefits of agriculture comes from woody crops' inherent ability to sequester carbon in the soil. In this way, perennial cropping systems such as vineyards provide significant opportunities for managing the impacts of climate change locally. According the American Farmland Trust, ag land is responsible for 58 times fewer greenhouse gas emissions per acre than urban spaces.

As more and more research about effective land stewardship policies emerge, we are finding that vineyards are not only carbon neutral, but can be climate positive over the medium and long term. A vineyard's low nitrogen requirements, low water requirements, and ability to thrive in drought conditions make it a powerful tool in the toolbox for combating global warming — and the perfect agricultural product for Napa County.

Through smart carbon farming practices, we are also able to maximize these inherent benefits, to permanently store carbon in huge quantities in our managed lands throughout the county. These practices include mandated cover cropping strategies, judicious use of compost, and other key farming practices promoting soil health and preventing soil erosion. Oftentimes, there is no silver bullet; however, a series of adjustments like these, in all areas of a vineyard operation, have been proven effective.

ECONOMIC IMPACTS & THE IMPORTANCE OF PROTECTING SMALL FARMS, FAMILY OPERATIONS, AND OPPORTUNITIES FOR YOUNG TALENT

Whatever the result of this regulatory process, it is likely that smaller operations will be disproportionately impacted. Therefore, it is necessary that legislators build in certain protections for smaller farming operations and smaller parcels, family farms, and opportunities for future farmers.

Farming Costs on the Rise

The EIR for the Water Board's WDR predicted an 8% increase in costs for growers to comply. Informally, NVG is aware of small farming operations on the cusp of 5 planted acres (the minimum acreage subject to WDR compliance) that, unable to sustain the added financial burden, are choosing to pull out vineyards at a loss to their business and total Napa County ag land. Looking at the broader picture, members of NVG leadership have predicted a 30% increase in overall farming costs—including labor costs—over the next five years. This is significant and will no doubt put immense pressure on growers, and particularly growers with smaller, family operations and parcels. So, the County should be asking itself what any increase in regulatory costs will do to small family operations, many of whom, may be on the cusp of this tipping point. What will it mean for Napa County to lose them?

Long-Term & Significant Trends

A significant number of growers have begun leasing properties to larger professional companies that can handle the vast network of compliance mandates (i.e. WDR, FLC licensing, Pesticide applications, etc...). Leasing vineyards can be considered a stopgap for many property owners from outright selling their properties, when they care deeply and do not want to give up stewardship of the land.

On the other hand, Napa County has also seen an uptick in second homeowners that may or may not have as deep of a connection with the farming process. This has the potential to endanger the long-term protection of that land. For example, what happens when a vineyard or orchard does not return enough on the landowner's investment or fails to cover the property taxes? Farming gives way or yields in every scenario to a different land use more suited to a property owner's economic situation. In these cases, we will see that the 'highest and best use of the land' will switch from agriculture to the real estate value of the land.

Lastly, with additional regulatory burdens and costs, the barrier to entry continues to increase in Napa County. Consequently, many young, talented vineyard managers and winemakers working within the local industry have begun building brands elsewhere or not building them at all, for both economic reasons and the simple fact that there are fewer roadblocks to success in other comparable winegrowing regions. While it is difficult to quantify this last effect, it is easy to understand how losing young talent personally vested in Napa County is tied to the future stewardship of the land.

ADDITIONAL CLARIFICATIONS

NVG requests the following additional clarifications on the Draft Ordinance:

- Regarding the small vineyard exemption, does "5 acres" refer to 5 planted acres, as with the Water Board's WDR or the total parcel acreage? NVG believes this should read "5 planted acres". (Page 31 Section 17)
- Do mandates related to tree canopy, shrub, and grassland protection refer to all types of trees, regardless of status as native or beneficial? What about invasive species?
- In light of the lengthy list of exceptions included on page 17, do these rules really apply to "all development"?
- With regard to the effective date, please clarify what "complete" means with regard to applications in the pipeline, prior adopting the Draft Ordinance.
- Aerial photos from 2016 and 1993 (Page 9 Section 2) were not taken with this Draft Ordinance in mind, therefore, NVG encourages the County to take new, purpose-built and high resolution photos to align with the task of enforcing these specific regulations.

Conclusion

Napa County growers want to do their part and want to be part of a larger community that's doing its part. We want to see a countywide effort in realizing goals defined by Napa County's recently adopted Strategic Plan, such as "developing a balanced approach to growth based on data-informed decisions."

As an organization committed to agricultural preservation, we urge the County to keep in mind the current rates of growth in the agricultural sector. For example, based on data from Napa County's Annual Crop Report, growth is slow when it comes to vineyards, which are increasing at a rate of less than a half of a percent on average, and vineyard planting is currently tracking well below the expectations written into the 2008 General Plan. Therefore, as we discuss future growth with the County, we hope that the Planning Commission will view Napa County growers as already engaged in efforts to maintain a measured, responsible approach to growth within developable areas of the County. Promoting smart and sustainable growth of responsibly-farmed agricultural land has and always will be a priority for NVG.

Sincerely,



Paul Goldberg
President, Napa Valley Grapegrowers



Garrett Buckland
NVG Executive Committee



Michael Silacci
NVG Executive Committee



Mary Maher
NVG Executive Committee



Erin Bright Russell
NVG Industry Issues Chair

cc: Napa County Supervisors
CEO Minh Tran
Planning Director David Morrison
Brian Bordona

Bledsoe, Teresa

From: Morrison, David
Sent: Tuesday, February 19, 2019 1:36 PM
To: Fuller, Lashun; Bledsoe, Teresa; Thepkaisone, Cesselea
Cc: Bordona, Brian; Anderson, Laura
Subject: FW: Eldon Parker

Follow Up Flag: Follow up
Flag Status: Flagged

From: Dianna Parker <epa3029747@aol.com>
Sent: Tuesday, February 19, 2019 1:34 PM
To: Morrison, David <David.Morrison@countyofnapa.org>
Subject: Fwd: Eldon Parker

Sent from my iPad

Begin forwarded message:

From: Dianna Parker <epa3029747@aol.com>
Date: February 19, 2019 at 1:01:14 PM PST
To: Joelle Gallagher <JoellePC@gmail.com>
Subject: Eldon Parker

I live about 1.5 miles down stream from the Lake Curry Dam, which hold the Suisun Creek waters. I have lived here 41 years.

Suisun Creek borders and runs through my property for 1/2 mile. We are on constant watch for erosion of our 10 acres, most of our erosion is 80% man made, bad management of the dam flow by the city of Vallejo which is the worst.

My neighbors allow cut logs, cut limb-age, auto body parts, tires, lumber and root balls to go down stream, My wife and I are 75 years old and can no longer clear these snags, our soil is class A and when it erodes at the creek bank it creates a 90 degree creek bank.

Our other erosion comes from Wooden Valley Cross Road drainage ditches that are not allowing water to reach the culvert forcing it across the road into or orchard stripping the top soil to the creek. All of these problem can be eliminated with common sense and the road crew diligence.

These new regulations will strip us of 1.24 acres of our 10.2 acres reducing the value of such which we pay Taxes on.

I would like to know how many of the ten who make these decisions have water ways involved with their property.

Lastly wild life, In 1980 steelhead were planted in Suisun Creek, I believe they are still with us even after the city of Vallejo closed the gates of Curry Dam time after time, they state there are

no fish in the creek when the gates are closed, the creek goes dry and has the fish going to a final pond where the birds and prey have a feast and creates a stench, the fish include the steelhead, trout, bluegill etc, including beavers osprey and many more.

Lake Curry because of pollution it's purpose has no use but to be sent down stream, why do they sporadically stop the flow by killing the frogs and fish.

Please use common sense to make your decision.

If you wish I can talk to you!

Home phone 707 422-5158

E-mail 8eng5trkboy@gmail.com

Do to medical appointments I am unable to be at the meeting please hear my words.

Thank you Eldon Parker

1100 Wooden Valley Cross Rd

Sent from my iPad

Bledsoe, Teresa

From: Morrison, David
Sent: Tuesday, February 19, 2019 1:45 PM
To: Fuller, Lashun; Bledsoe, Teresa; Thepkaisone, Cesselea
Cc: Bordona, Brian; Anderson, Laura
Subject: FW: Planning Commission hearing - Watershed Ordinance
Attachments: Ltr to Plan Comm re Watershed Ord - FONR 2-18-2019.pdf; FONR Watershed Ordinance Comments 2-18-2019.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

From: Charles Shinnamon <chuckshinnamon@gmail.com>
Sent: Tuesday, February 19, 2019 1:41 PM
To: Gallina, Charlene <Charlene.Gallina@countyofnapa.org>; Morrison, David <David.Morrison@countyofnapa.org>; anne.cottrell@lucene.com; joellegPC@gmail.com; Whitmer, David <Dave.Whitmer@countyofnapa.org>; Mazotti, Andrew <Andrew.Mazotti@countyofnapa.org>; JeriGillPC@outlook.com
Subject: Planning Commission hearing - Watershed Ordinance

Dear Planning Commissioners, Mr. Morrison, and Ms. Gallina,

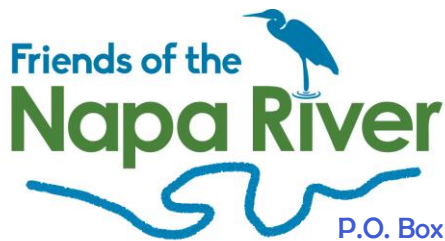
Enclosed are comments from the Friends of the Napa River regarding the proposed changes to the Conservation Regulations.

Thank you for your kind assistance,

Chuck Shinnamon

Charles W. Shinnamon, Treasurer
Friends of the Napa River, Inc.

P.O. Box 537
Napa, CA 94559
707-321-0195 (Mobile)
chuckshinnamon@gmail.com



P.O. Box 537, Napa, CA 94559 phone: 707-254-8520 email: info@fonr.org www.fonr.org

February 18, 2019

**Board of
Directors**

Bernhard Krevet
(President)
Tracy Krumpfen
(Vice President)
Francie Winnen
(Secretary)
Chuck Shinnamon
(Treasurer)
Barry Christian
David Graves
Tony Norris
Laurie Puzo
Rex Stults

**Honorary
Advisory Board:**

Karen Bower Turjanis
Maira Johnston Block
David Garden
Roger Hartwell
Harold Kelly
Mike Rippey
Kent Ruppert
Judith Sears
Ginny Simms
Barbara Stafford
Tim Yarish

Napa County Planning Commission
1195 Third Street, Third Floor
Napa, CA 94559

Re: Proposed Changes to County of Napa Conservation Regulations

Dear Chair Gallagher and Commissioners:

The Friends of the Napa River (FONR) was formed twenty five years ago;

“To be the community’s voice for responsible protection, restoration, development and celebration of the Napa River and its watershed through education and advocacy, and to provide community leadership in achieving the following objectives and purposes of this corporation:

To advocate for the protection of the watershed whenever possible at the city, county, state and federal levels. Encourage planning that includes sensitivity to human, economic and biological impacts.”

We write you today in that spirit. Our long-term vision is for a healthy watershed with its wide variety of ecosystems and clean water in our streams and in our reservoirs, while respecting and celebrating our community’s strong agricultural roots and values. All of these are intertwined and should always be seen as inextricably linked. Local farmers, vineyardists, winemakers and environmental advocates have long raised strong voices in the protection of both agriculture and our watershed.

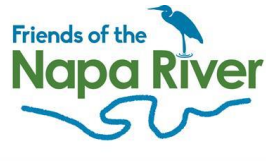
As noted in our April 2018 letter to the Editor regarding Measure “C”,

“We still agree that there are growing threats to our important watersheds, our waterways and water supplies, and to the wildlife corridors that support the long-term viability of our natural world. But, we urged, though, a different approach...”

FONR again supports a collaborative effort instigated by the Board of Supervisors, Measure C proponents and opponents to achieve the protections needed for our priceless watershed to ensure the future quality of life for Napa County. Napa County is known for more than just our world-famous wine — we are known for our ability to collaborate.”

Three weeks ago, the Board of Supervisors held a marathon session with significant public input; they then discussed sixteen (16) issues related to a possible update to the Conservation Regulations. Those sixteen issues and the Board’s related three (3) Strategic Action directions are emerging for encapsulation in the proposed draft changes to the Conservation Regulations set before you now.

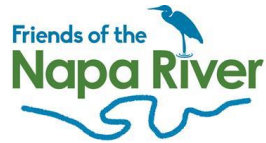
We applaud the Board of Supervisors for getting this process started and we generally agree with their recommendations to you. Rather than go through the draft Ordinance revisions section by section, we have used the same sixteen (16) issues format used by the



Board of Supervisors. The FONR Board has discussed these issues at length over the last few months and we offer our comments in the enclosed, “Comments and Recommendations--Proposed Watershed Ordinance”. (Please note that Rex Stults, although a Friends Board Member, has fully recused himself from our deliberations.)

Our comments have a number of basic tenets:

- These strictures should **apply to all** development in the unincorporated watersheds, not just to vineyards specifically or to agriculture overall, but to all buildings, roads, utilities, landscape improvements, and supporting infrastructure that are expected to come with new development.
- **None of this is simple.** Our Napa County ecosystems have been identified as highly complex and diverse with dynamic interrelationships that are under continued study and that we are only just beginning to fully understand. Using a one-size-fits-all approach is not recommended. That is why, for example, we have suggested a sliding scale of Tree Canopy retention (based on the model of another county’s conservation ordinance) rather than just one percentage that may be a forced fit in all situations, which could compromise our ecosystems in places later.
- We support continued **mitigation plantings in stream setbacks.** The exemplary, successful restorations of the Rutherford and Oakville reaches of the Napa River speak volumes about the merits of such efforts.
- We need far **better enforcement and monitoring** than currently in place. Future plantings for mitigation associated with tree and shrub removal need long-term maintenance agreements and monitoring to ensure that these new plantings actually survive and do what is expected over the years. Unfortunately, such mitigation approaches rarely work as well as intended. Therefore, we recommend preservation of mature woodlands, shrublands, and our natural world to protect wildlife corridors and flyways without fragmentation.
- We consider this proposed Ordinance to be a **work in progress**, but do recognize that for government to be efficient its codes need rigorous enough definitions to be enforceable. There are a number of scientific enquiries currently in progress, some specific to Napa County and some more regional. We have more to learn about migration patterns and wildlife corridors in a rapidly changing and threatened environment. Amendments to code and the General Plan are certainly forthcoming as a result.
- We see this as an imperfect process, but not an unexpected one in an **open and transparent conduct of government.** It has been put before the public and much input has been given and we feel assured that such input will continue to be taken by our County leaders. There are strong opinions on many sides. There has not



Page 3 of 3

been the level of collaboration and full discussion that we would have preferred, however. We reassert that reasonable modifications to code and to the General Plan, when the inevitable flaws are found, may be corrected through a broad community coalition process. Yet, finally, we acknowledge that there is the need now to craft an effective ordinance protecting watersheds and woodlands in the unincorporated areas.

We commend the Supervisors, your Commission and County staff for advancing this strategic public process thus far. We feel assured that enhanced protections will come of it for future generations to enjoy in the natural setting of underdeveloped watersheds and woodlands.

Respectfully submitted on behalf of the Board of Directors of Friends of the Napa River,

Bernhard Krevet, President

Enclosure

cc: FONR Board

Friends of the Napa River – Comments and Recommendations -- Proposed Watershed Ordinance – February 19, 2019

Policy Question	BOS Areas of Agreement (1/29/19)	FONR Recommendations and Reasoning
1. Slopes	Prohibit new planting and structures on slopes over 30%, with certain exemptions	Agreed, except that this should apply for all new development (which include, but are not limited to, the access and utilities routed with all associated new infrastructure to the improvement sites). There should be very few exceptions with strong reasons for doing so. Exceptions should be made for habitat restoration, erosion repairs using only native plants, and control/clearing of invasive exotic weeds.
2. Municipal Reservoir Setbacks	Create a buffer of 200 feet around municipal reservoirs, subject to comment from the cities about specific reservoirs.	Agreed. There may also be a need to include adjacent springs and seeps above each reservoir as well as protections for the tributaries feeding the reservoirs.
3. Wetland Definition	Adopt the federal definition of wetlands but monitor the state’s process and consider adoption of a final state definition of wetlands	Agreed while noting that there appear to be upcoming definition modifications coming from the State of California. Vernal pools also need to be included as they tend to host very complex biotic communities. Ultimately, there needs to be maximum consistency across all jurisdictions.
4. Wetland Setbacks	Create a 50-foot minimum setback around wetlands.	Agreed, unless CEQA review, on a case by case basis for any new development, warrants a broader setback due to the wide variation of types and values of wetlands, as well as the extent of banks and slopes of the adjacent uplands.
5. Stream Definition	Preserve existing definition and amend code to include Class III equivalent streams.	Agreed to include Class III equivalent streams with full applicable definition now. Improved definitions of all Classes of streams may eventually be better informed by the State or other jurisdictional agencies.
6. Stream Setback	Create a 35-foot minimum setback from Class III equivalent streams.	Agreed for Class III streams. Further, the Napa River and its major tributaries need greater setbacks than currently outlined or as required by other regulatory agencies. The criteria for measuring the stream or river setback should be from the top of bank or a 2:1 projection from the toe of the slope, whichever results in the larger setback.

Friends of the Napa River – Comments and Recommendations -- Proposed Watershed Ordinance – February 19, 2019

7. Tree Canopy Definition	Maintain the existing definition of tree canopy.	Modify the definition to include individual trees of stature in the definition and specifically hold as protected either as “heritage”, “significant” or “native” trees drawing from definitions and measured determinations for each by species as in the City of Napa Tree Ordinance or the El Dorado Conservation Ordinance. However, important and diverse forms of tree canopy exist, depending on the species makeup in conjunction with adjacent sites. This may require more reliable mapping as can be produced as a deliverable from the Napa County contract with UC Davis for vegetation mapping. This could indicate more professional insights for evaluations and robust methods for protecting canopies of plant communities into the future.
8. Tree Canopy Retention	Increase tree canopy retention from 60 percent to 70 percent and extend it from development in municipal reservoir watersheds only to development in all unincorporated areas.	Agreed to extend the protection to all areas in unincorporated area. We agree with the outline of tree protections in El Dorado County’s General Plan with added protection for Napa County: <ul style="list-style-type: none"> • Existing Canopy of 80% to 100% - Retain 70%. • Existing Canopy of 60% to 79% - Retain 75%. • Existing canopy of 40% to 59% - Retain 80%. • Existing canopy of 20% to 39% - Retain 85%. • Existing canopy of 1% to 19% - Retain 90%. Finally, there needs to be permanent protection of the canopy retention areas. Land Trust easement? It needs to be easily found by the public and regulators and enforced into the future.
9. Shrub Canopy Retention	Extend a 40-percent shrub canopy retention requirement for development in municipal watershed reservoirs to development in all unincorporated areas (exclude grassland retention outside of municipal watersheds).	Agreed but extend protections throughout the unincorporated area. Native grasslands need to be mapped at a renewed scale and considered for protection in the future as important components of some plant communities. Again, the UC Davis study should help provide more information.
10. Tree Mitigation Ratio	Increase the tree mitigation ratio from 2-1 to 3-1. Mitigation prioritized to the highest biological value, preferably on-site but allowed off-site, and may take place on slopes greater than 30 percent, but not in stream setbacks.	Agreed with increase to 3-1 mitigation onsite for any in-kind mature native plant community and associated canopy while avoiding fragmentation of that community. Protect “heritage”, “significant” and “native” trees to the extent feasible drawing on the definitions and measured determinations of each protected specimen from the City of Napa Tree Ordinance or the El Dorado County Conservation Ordinance. Heritage trees should be replaced by an equivalency in caliper diameter. In-kind protected specimen replacement may be considered but similar specimens in adjacent or nearby properties within a similar plant community may also be considered for recorded protection.

Friends of the Napa River – Comments and Recommendations -- Proposed Watershed Ordinance – February 19, 2019

		Mitigated replanting of young trees of the same species may be considered as a last resort; but bonded to survive for five years to a minimum of 80% of the original planting at a much higher ratio than for mature trees as determined on a case by case basis by a Certified Consulting Arborist or Registered Forester. Additional planting for habitat restoration within stream setbacks and in 30% slopes or greater should be encouraged as a priority, however.
11. Effective Ordinance Date	Apply to existing incomplete and new applications after effective date.	Agreed.
12. Exemption: Fuel Management	Continue to exempt fire management from the new ordinance requirements.	Agreed; however, fuel management herein cannot allow for clearing of vegetation for other reasons than what a Fire Marshal requires seasonally; but with the added exemption of what a Pest Control Advisor recommends and Agricultural Commissioner requires to control invasive exotic weeds (with or without imposition of quarantine).
13. Exemption: Forest Health	Continue to exempt forest health management practices from the new ordinance requirements.	Agreed with caveats outlined above.
14. Exemption: Fire Rebuild	Exempt reconstruction of residences lost to declared emergency events (and singular catastrophic events) from the new ordinance requirements	Agreed for a five-year period extended only to the current affected property owner. Any new construction in areas of known fire risks need to be governed by strict fire resistive construction standards.
15. Exemption: Vineyard Replant Exemption	Continue to exempt vineyard replanting in the same footprint from the new ordinance requirements.	Agreed, but for all crops (not just vineyards). The farmer may choose which crop to plant next within the same existing footprint. A replant to orchard may add needed canopy cover in time.
16. CEQA guidelines	Exempt 5.0 acres of vineyard development on slopes less than 15% from the new ordinance requirements. Limit of once per legal lot.	Agreed, but for all crops (not just vineyards). Five acres (or less) in recent production should include the full existing footprint inclusive of, but not limited to, tractor turn zones, drainage dispersal systems, irrigation systems or other appurtenances necessary for any working landscape.

California Native Plant Society

RECEIVED

Feb 19, 2019

To: Napa County Board of Supervisors
c/o Jose Luis Valdez, Clerk of the Board
1195 Third Street, Suite 310
Napa, CA 94559
707-253-4380
Email: Jose.Valdez@countyofnapa.org

FEB 19 2019

COUNTY OF NAPA
EXECUTIVE OFFICE

Following are specific comments regarding the proposed Watershed Protection ordinance matrix:

Slopes : We support *Option B* although we advise that the list of exemptions be reduced to eliminate those exceptions that would allow conversion of < 1 acre areas with slopes of > 30%. Cultivation and permanent exposure of such areas to continual ground erosion should not be permitted.

Municipal Reservoirs : A setback of 200 ft for all development may be scientifically sound and acceptable to control erosion on slopes of 10% or less but we recommend that this setback be increased incrementally under an adopted schedule to a setback of 500+ ft. on slopes approaching 30%.

Wetland Definition: We agree that wetlands should be defined by at least two parameters as is the case in Sonoma County. Under the federal definition, three parameters (unlike "one parameter" as stated in *Option B*) – soil mottling features, presence of wetland indicator plants and seasonal standing surface water define a wetland. On thin rocky volcanic soils in Napa County, soil characteristics (mottling) is rarely achieved despite the fact that wetland indicator plants and standing water in season are characteristic. Therefore we urge you to adopt *Option C*.

Wetland Setbacks: The recommended *Option A* oversimplifies the complexity of this issue. A setback of 50 ft. may be adequate on slopes of < 5 % but we recommend that this number be adjusted incrementally if surrounding slopes are greater. We suggest 100 ft. setback if 10% slopes exist or 200 ft. if slopes are 15% or greater or if special status species occur in the wetland. For areas within the setback, an accepted plan should also be designed and approved to prevent degradation of the wetland by invasive species. If a wetland has connectivity with a channel that feeds it upslope, this connectivity must be included with appropriate setbacks to prevent interruption of the hydrology that sustains the wetland.

Stream Definition: We support *Option B*, adding language to regulations to include Class 3 streams. This language should be prefaced in the environmental regulations by a sound discussion of the significance of these streams in providing nutrients and sediments into riparian systems and for providing the first order of buffering of agricultural runoff.

Stream Setbacks: We support *Option C* – 125 ft. on Class 1 streams, 75 ft. on Class 2 streams and 35 ft. on Class 3 streams. There should continue to be requirements of greater setbacks based on slope steepness according to an established schedule for slopes approaching 30 %.

Tree Canopy Definition: The current definition is inadequate or perhaps just unclear. The definition should be inclusive of undisturbed wooded habitat including stands of trees. It is unclear if interrupted tree canopies, as often occurs in blue oak woodlands and valley oak savannah communities, limit the application of the ordinance.



Dedicated to the preservation of California native flora



The current definition appears to apply to forest habitats only, although the definition of “continuous” is debatable in this context. It must be made clear that isolated trees and patches of grassland are part of such communities and must be considered in the determination of “canopy” coverage. The functionality of woodland communities includes the herbaceous cover that is a result of an interrupted canopy. By contrast, a forest community typically includes a brushy understory with perennial herbs and leaf litter and supports a different suite of fauna.

Tree Canopy Retention: *Option B* provides 60% retention throughout county. While this appears to be a large step in the right direction, this does not take into consideration the cumulative impacts that have already occurred. It does not parse out the impacts that have already occurred to various vegetation types. It is estimated that approximately 32,000 acres of Valley Oak Woodland have already been converted to various uses in Napa Valley. It is justifiable to not allow further development of this vegetation type. Black Oak Alliance covers 2,220 acres and perhaps 80% retention better applies for its protection. By contrast, Blue Oak Alliance covers 44,190 acres and Coast Live Oak covers 13,178 acres so perhaps 60% is a reasonable approach to conservation of these veg types although it is uncertain how these numbers compare to the percentage that has already been converted. In the light of climate change, further land conversion must be justified and the maximum retention rate achievable should be applied.

Shrub Canopy: *Option B* provides the greatest level of protection but the logic behind the lower value placed on chaparral communities is not justified. Shrub communities support the highest botanical diversity of vegetation types in Napa County and its preservation should follow that of forested and wooded types. We support 60% retention of shrub canopy. The following table was generated from data that has been assimilated to compose a Flora of Napa County. This table highlights the significance of Chaparral communities in supporting plant biodiversity. (Some species occur in one vegetation type only, many occur in multiple types but none occur in all types.)

Occurrence of Native Species in Napa County by Major Vegetation Types

Type	Number	% of Total
Forest	549	45.5
Woodland	607	50.3
Chaparral	722	59.8
Grassland	293	24.3
Wetland	179	14.8
Riparian	167	13.8
ruderal (disturbed)	67	5.5
<i>Total</i>	1,207	

If the same analysis is applied to special status species in Napa County, nearly 65% of Napa County’s 125 species can be found in chaparral (shrubland) communities.

Tree Mitigation Ratio: Tree loss mitigation by onsite planting is ill advised. The forced tree planting on otherwise undeveloped landscape defies what nature has dictated on undisturbed sites and just multiplies the significance of impacts of land conversion. Mitigation is more effective if it involves restoration of damaged sites or acquisition of “at risk” comparable habitat in the region. This issue is alluded to in the category that follows on the table which deals with Mitigation Location. We support language in the ordinance that favors restoration and acquisition over mitigation planting onsite.

Exemptions: We support amendment of local CEQA Guidelines to require that all new vineyard (agricultural) development including planting of < 5.5 acres be subject to the ordinance. We also recommend that timberland conversion exemption language be modified to prevent incremental conversion of 3 acre pieces to agricultural development. This can be done by limiting the number of such conversions per parcel.

Code Section 18.108.050.S – This measure permits the continuation of environmental damages from grandfathered developments. If positive progress is to be made to restore severely damaged stream corridors then a replant should initiate an opportunity to negotiate an increase in setback. Perhaps the landowner has the option to replant at greater density and not lose vine and production numbers while still providing a greater setback. Perhaps the landowner can be negotiated with to make the right environmental choice by offering a tax benefit for a conservation easement. Options for recovery of damaged riparian habitat should be studied.

Local CEQA Guidelines: We support *Option B*, which would require that all new vineyard development be subject to the ordinance.

Some additional recommendations to address issues not covered in the proposed Watershed Protection Ordinance:

Grassland habitats, particularly those found on slopes of <5 % continue to be ignored in land use ordinances. Perhaps 80% of valley floor grasslands has already been developed in Napa County. These grasslands support a significantly different suite of annual plant species than upland grasslands do and generally include a mosaic of seasonal wetlands including vernal pools. Together, grassland and wetlands support over 400 species of native plants. It is time to incentivize preservation of critical remaining resources. It is unjust to continue to ignore this environmental tragedy. We recommend that the county develop tax incentives or provide a funding mechanism to compensate landowners in a way that allows them to sustain current uses maintaining these critical natural communities.

Invasive plant species are a continual and increasing threat to native species and communities. Degradation leads to a decline in ecological values and habitat services. Conversion of land and fencing leads to isolation of plant communities and increased habitat degradation. Invasive species are often a secondary impact result from incomplete weed management within managed areas such as roadsides and farms. Requirements should be established to prevent invasive noxious weeds from moving off farmed /managed areas and into wildlands.



Jake Ruygt
Conservation Chairman,
Napa Valley Chapter, California Native Plant Society
2201 Imola Avenue
Napa, CA 94559

Bledsoe, Teresa

From: Morrison, David
Sent: Tuesday, February 19, 2019 4:32 PM
To: Fuller, Lashun; Bledsoe, Teresa; Thepkaisone, Cesselea
Cc: Anderson, Laura; Bordona, Brian
Subject: FW: Public comment: Watershed Ordinance insufficiencies

From: Debby Fortune <debbyfortune@gmail.com>
Sent: Tuesday, February 19, 2019 4:30 PM
To: Morrison, David <David.Morrison@countyofnapa.org>
Subject: Public comment: Watershed Ordinance insufficiencies

To the Planning Commission:

Considering that the retention of forests is the most powerful tool available for slowing climate collapse, for Napa County to continue to allow deforestation for commercial vineyards or development of any nature, is unconscionable and irresponsible.

We rely upon our local government to make choices with long term consequences that benefit the many - the community and the environment - not choices that benefit the few profiteers.

As the planning commission considers the new ordinance, it has many insufficiencies that must be addressed.

Tree Canopy: The county's proposed 70% retention of tree canopy cover, minimum, is utterly unacceptable. The only acceptable retention rate is 90%, achieved in combination with further important protections that need strengthening, below:

Tree Removal: The county's proposed mitigation on slopes >30% is unacceptable. This practice has been described as "double-dipping." Allowing preservation on steeper slopes that are already protected might help facilitate mitigation, but it frustrates the primary goal - limiting the clear cutting of Napa's forests. Preservation needs to take place on developable land, outside of already protected steeper slopes, and outside of already protected stream and wetland setbacks.

Canopy cover: The proposed definition considers canopy cover as the continuous, collective cover of a grouping of trees. But it does not consider single trees as part of the canopy cover. This is unacceptable, as it does not address oak woodlands where there is not a closed canopy. State law (AB 242, Thomson, 2001) addresses oak ecosystems whereby an "oak woodland" is defined as an oak stand with >10% canopy cover or that may have historically supported >10% canopy cover. By using this definition, single oaks would be counted as part of the canopy cover.

This is critical.

The adoption of this ordinance as is would be a great disservice to the community.

Send it back to the supervisors to do a better job.

Please have the foresight and courage to not bend to the will of the wine industry. Take more time and make this ordinance into one that protects and preserves our mutually shared resources and takes a responsible approach.

Things have changed on the planet and the failure to accept the changes of climate change and make better decisions based on current science is a catastrophe for this valley.

Trees will save us all.

More vanity vineyards, deforestation, tour busses, and dead wildlife, will not.

Sincerely,
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Sent from Gmail Mobile