

FEB 20 2019

753

Agenda Item # 1B

Bledsoe, Teresa

From: Morrison, David
Sent: Wednesday, February 20, 2019 8:26 AM
To: Fuller, Lashun; Bledsoe, Teresa; Thepkaisone, Cesselea
Cc: Bordona, Brian; Anderson, Laura; Gallina, Charlene
Subject: FW: City of Calistoga Comments RE: Napa County Watershed Protection Ordinance
Attachments: Napa County Watershed Protection Ordinance 022019.pdf

Sent with BlackBerry Work
(www.blackberry.com)

From: Dylan Feik <dfeik@ci.calistoga.ca.us>
Date: Wednesday, Feb 20, 2019, 7:57 AM
To: Morrison, David <David.Morrison@countyofnapa.org>
Cc: Lynn Goldberg <lgoldberg@ci.calistoga.ca.us>, Tran, Minh <Minh.Tran@countyofnapa.org>, Dillon, Diane <Diane.DILLON@countyofnapa.org>
Subject: City of Calistoga Comments RE: Napa County Watershed Protection Ordinance

Good morning David,

Attached, please see a letter of support and two different requests for revisions to the Watershed Protection Ordinance. These were discussed and provided by the City Council during its meeting on 2/19.

Thanks for all your hard work on this ordinance.

Dylan

Dylan Feik
City Manager
1232 Washington Street
Calistoga, CA 94515
Office: 707-942-2806
Cell: 801-821-1734

CITY OF CALISTOGA

1232 Washington Street • Calistoga, CA • 94515

Telephone 707-942-2800

Fax 707-942-0732

www.ci.calistoga.ca.us



February 20, 2019

David Morrison,
Planning, Building and Environmental Services Director
County of Napa, California
1195 Third Street
Napa, CA 94559

RE: City of Calistoga, California Comments Related to the Napa County Watershed Protection Ordinance

Dear Mr. Morrison and Napa County Officials,

The City of Calistoga offers our sincerest “thanks” for your work to update countywide environmental regulations pertaining to water quality and natural resource preservation.

Please accept this letter from the City of Calistoga which offers two (2) considerations as you refine and consider final ordinance language.

1. Kimball Reservoir, which is one of the City of Calistoga’s water sources, is specifically identified in the conservation regulations as a “sensitive domestic water supply.” The reservoir is located on a 278-acre parcel outside the city limits (Attachment 3). The Napa County Planning, Building & Environmental Services Director previously confirmed that any activities on the property for a municipal purpose are exempt from the County Code, including this ordinance.

However, portions of the Kimball Reservoir along its western boundary are separated from the adjoining property line by only 20 feet. Therefore, the City of Calistoga recommends the following language be added to Section 18.108.020

(G):


“... In the event the adjoining property line is closer than 200 feet to the municipal water supply reservoir, the 200-foot setback shall be measured from the adjoining property line.”

2. The City of Calistoga appreciates the thoughtful, science-based approach used to determine appropriate setback requirements from sensitive domestic water supplies. As proposed, the County ordinance would include a 200-foot setback.

The City of Calistoga respectfully requests consideration be given to increase the setback to 500-feet. Doing so would demonstrate a "more thoughtful, careful approach" toward protecting precious water resources and supply used for public purposes.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dylan Feik', with a stylized flourish at the end.

Dylan Feik
City Manager
dfeik@ci.calistoga.ca.us
707-942-2806

Item 7B
PC 4/20

Bledsoe, Teresa

From: Morrison, David
Sent: Wednesday, February 20, 2019 8:55 AM
To: Fuller, Lashun; Bledsoe, Teresa; Thepkaisone, Cesselea
Cc: Anderson, Laura; Bordona, Brian
Subject: FW: Napa county proposed watershed ordinance

From: Barbara Schell <nest_bjs@att.net>
Sent: Wednesday, February 20, 2019 8:28 AM
To: Morrison, David <David.Morrison@countyofnapa.org>
Subject: Napa county proposed watershed ordinance

Mr. David Morrison
Director of Planning

Dear Mr. Morrison:

I am a resident of Napa, and have been here for well over 20 years. Personally I am fully against strengthening the erosion control plan that is currently being reviewed. The Watershed protection that is in place is enough control.

The Sierra club group are fanatical and consumed with control. Measure C LOST in passing....the voter's have spoken.

Thank you.
Barbara J. Schell
109 Woodland Drive
Napa, CA

Bledsoe, Teresa

From: Morrison, David
Sent: Wednesday, February 20, 2019 12:06 PM
To: Fuller, Lashun; Bledsoe, Teresa; Thepkaisone, Cesselea
Cc: Bordona, Brian; Anderson, Laura
Subject: FW: Comment: Stream Setback Ordinance

Planning Commission Mtg.

FEB 20 2019

Agenda Item # 7B

Follow Up Flag: Follow up
Flag Status: Flagged

Sent with BlackBerry Work
(www.blackberry.com)

From: richard ehrenberger <zquat@aol.com>
Date: Wednesday, Feb 20, 2019, 12:04 PM
To: Morrison, David <David.Morrison@countyofnapa.org>, Smith, Vincent (PBES) <Vincent.Smith@countyofnapa.org>
Subject: Comment: Stream Setback Ordinance

Mssrs Morrison and Smith, Napa County Planning Commission
Being unable to get to this mornings meeting I would appreciate that if possible, you would add my comprehensive objection to the public comment on this issue.
If the basis for planning and regulation is to provide for the safety and wellbeing of citizens and public, this ordinance is going the wrong direction. It is way too soon after the 2017 holocaust to propose measures that would add hazard and risk. Restudy the consequences, act on proven nexus and the measure of factual cost benefit and do so in a way that does not unfairly load those costs on a few for the benefit of many.

Sincerely,
Richard Ehrenberger
1990 Soda Canyon Rd [pre Atlas Fire]

February 20, 2019

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Agenda Item # 7B

Napa County Planning Commission

RE: Proposed Changes to the Conservation Ordinance

Is the Napa Valley wine industry at a tipping point?

In 1991 the County and the agricultural community came together on a common goal of eliminating soil erosion and created the Conservation Ordinance. While we quibbled over some of the details, it was a successful collaborative effort. Today, the County and the wine industry are sharply divided over any need to strengthen the current regulations.

The County has demonstrated a callous disregard for the Napa wine industry's concerns with the proposed changes, which are draconian and hostile to grape growers and property owners throughout Napa County. We all know the Con Regs are working and there is absolutely no fact-based evidence to support these proposed changes.

The changes are politically motivated, pure and simple.

What happens to us when you have stopped growth with these rules and it does not placate the zealots? Will you claw back the rules?

Napa growers and vintners are more than willing to discuss and resolve real problems, but we will not allow our rights to be trampled on to advance the County's policy of appeasement.

If you and the Supervisors continue down this regulatory path it will be absolute proof that Napa County no longer supports the General Plan and you will have demoted agriculture to second-class status.

The Conservations Regulations have regularly been updated and strengthened over the past 28 years. It's worth noting that Supervisors of our competitors have not acted similarly. The Napa wine industry competes at a considerable disadvantage because of high land prices, the most restrictive regulations in the country and a well-organized and vocal opposition that relentlessly attacks us.

It's generally recognized that approximately 80% of the wineries in Napa make less than 5,000 cases per year and 80% of those wineries aren't profitable. In this highly competitive marketplace, it's my opinion that the Napa wine industry cannot survive without a supportive County government.

Only with the passage of time can economists recognize the tipping point that sends an industry into an uncontrolled tailspin. If enacted, will these new regulations be the proverbial straw that breaks the camel's back? Only time will tell.

Geoff Ellsworth
geellsworth@cityofsthelema.org

7B

Dear Napa County Supervisors,

It is our understanding that on Tuesday, January 29, during the completion process for the County's strategic plan, that watershed/water source protection issues will be discussed, potentially to be forwarded on to County staff for preparation of a potential Ordinance.

This is perhaps a direct result of Measure C and the recently concluded Congressman Mike Thompson committee meetings. Now is the time for the Supervisors to take substantive action on watershed/water source protections for the benefit of the public and the environment, and to ensure there isn't another divisive ballot initiative.

As elected officials and members of the City Councils of our various cities, we couldn't agree more.

80% of our Napa County citizens and residents live in our cities and the health and well being, as well as property values and business investments of our community depend on properly functioning watersheds and the equitable management of our collective water resources.

Our municipal reservoirs, along with the Napa River, are directly affected by developments on our AW (Agricultural Watershed) lands.

If the County is going to take substantive action on this, it is critical to involve our Cities in forming the Ordinance.

Other than American Canyon, the voters in all of our Napa County Cities supported Measure C.

Our people want meaningful watershed/water source protections. True leadership from the County Supervisors must recognize partnership with our Cities to ensure a sustainable water supply in terms of both quantity and quality for the foreseeable future.

Discussion of specific measures needs to occur with full inclusion of our City administrations who bear a responsibility to the citizens/residents we serve.

Geoff Ellsworth
Mayor - City of St. Helena

Scott Sedgley
Vice Mayor - City of Napa

Donald Williams
City Council member- City of Calistoga

Kenneth Leary
City Council member - City of American Canyon

Margie Mohler
City Council member - City of Yountville

Jeff Durham
City Council member - City of Yountville

Spring Mountain District Association
P.O.B. 1164
St. Helena CA 94574
www.springmountaindistrict.org

Planning Commission Mtg.

FEB 20 2019

Agenda Item # 7B

February 20, 2019

ATTN: Napa County Planning Commission & Board of Supervisors
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,



Sheldon Richards, Board President
Spring Mountain District Association
707.963.7504
info@palomavineyard.com

Jenny Simms

Planning Commission Mtg.

FEB 20 2019

Agenda Item # 7B

Copy for Clerk

VINES

30 + Carbon
Carbon
D-1
Vines D-1

Vines D-1

3/2 inches?

DBH

DBH

Coating

Roots

Long, wide

also Tap Roots

deep

20ft

Shallow

Pruned / Less shade cooling

TREES

30 +

Tree 1/25

Coating

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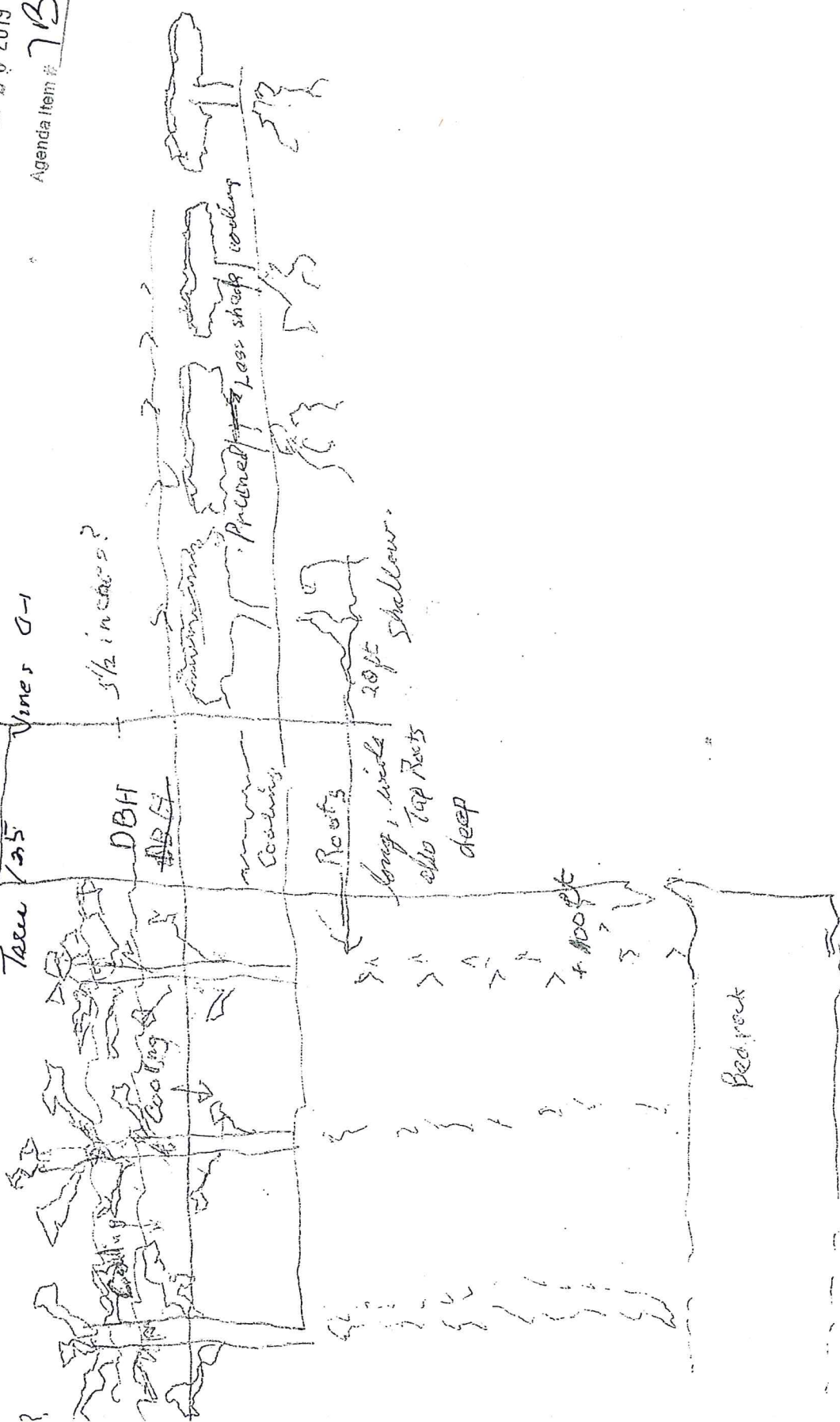
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Bedrock



Amber Manfree
February 20, 2019
Napa County Planning Commission Meeting

Planning Commission Mtg.
FEB 20 2019
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Comments on Conservation Policy Development

Any new policy should be science-based, enforceable, and have on-the-ground impacts which substantively exceed the protections of current rules. The biggest single determinant to the amount of conservation achieved is whether or not mitigation is allowed on undevelopable lands. Both 2:1 oak mitigation and the 60/40 rule allow this type of mitigation. Because of this, the majority of supposed "conservation" with either rule occurs on lands that are not at risk of development in the first place.

State rules require two-to-one, or 66%, oak canopy retention. The overall acreage protected by 2:1 mitigation is about 10% of developable area countywide.

Ratio-based and percentage-based mitigation requirements are different expressions of the same mathematical concept. A 2:1 rule is a 66 percent rule, and a 3:1 ratio is a 75 percent rule. The ratio-based "2:1" language is inherited from statewide regulations, but it is important to recognize that having both a ratio-based and percentage-based mitigation requirement is pointless if other factors - such as whether mitigation is permitted on undevelopable lands - are held constant, and confusing if they are not held constant. A straightforward way to structure new policy would be to adopt a single rule that is more stringent than existing rules.

Practically speaking, 2:1 mitigation, or 66%, is the floor for meaningful new conservation policy as the conservation effects of the 60/40 rule are very limited, only preventing future development on about 1,700 acres, or 5% of water supply watershed area.

Center for Biological Diversity recommends an ordinance that (1) requires retention of a minimum of 90% of existing forests and woodlands, (2) strictly limits development to slopes with less than 30% grade, (3) strongly favors on-site mitigation that leaves undeveloped areas intact, or would require 5:1 off-site mitigation within the watershed, or 10:1 mitigation outside the watershed in a location as nearby as possible (CBD 2019).

These recommendations are in-line with the results of my analysis, which demonstrates that allowing conservation to occur within undevelopable areas seriously undermines its effectiveness.

I would also like to note that water supply watersheds including Bell Canyon, Hennessey, Rector, and Milliken have proportionally large areas of chaparral and conifer cover, and less oak. To protect these water supplies, I recommend either adopting policies that protect all land cover types, or dramatically increasing protections to water supply watersheds. Specifically, I recommend setting caps on development that are based on hydrological analyses, with eventual moratoriums on wildland conversion in water supply drainages.

Planning Commission
Napa Co.
California

Planning Commission Mtg.

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I wish to keep relative quantity of
new plantings and over vineyards
as they are.

We just voted nearly county
wide. The people have recently
spoken in this regard.
The Planning Commission should not
propose counter measures at this
time.

Endy B. Allen
3252 Silverado Trail
Napa, Co.

Napa County Planning Commission
1195 Third Street
Napa, CA 94559
February 20, 2019

Planning Commission Mtg.
FEB 20 2019
Agenda Item # 7B

Re: Watershed Protection Ordinance, Agenda Item 7B

Dear Commissioners,

Efforts to protect the environment always seem desirable on the surface, but regardless of how well intended these efforts may be, they can have serious unintended consequences, as would this proposed ordinance, if enacted.

Unintended consequence #1 – Severe financial damage to property owners)

The inclusion of setbacks along Class III streams (ephemeral and intermittent streams) will result in tens of thousands of acres being essentially confiscated for de facto conservation easements, without fair compensation. Class III streams are those little gullies that begin very near the ridge tops and often extend to the valley floor where they flow into a larger stream. They usually run only when it rains, or maybe for a week or two afterward. They do not support riparian vegetation and certainly not fish. High in the hills where I live, they can be less than 100 feet apart at their sources, then combine into one stream a bit farther down the slope, then combine with still another even farther down, before finally flowing into Dry Creek about a mile from the ridge top. This dendritic stream pattern results in a significant portion of the land near the top of the ridge being within the 35 foot setback. In some areas, the setback may include the majority or even all of the land near the ridge top. Serious limitations on what can be done within these setbacks essentially deprives property owners of beneficial use of a huge portion of their property near the ridge tops, and significant portions of their property farther down the slope, not only within the setbacks, but also between them, because of the restrictions on crossing the setbacks to get to the land in between. This imposes real costs on property owners, including permit fees, professional investigation and reports, permit preparation and processing time, permit compliance costs, loss of use, and loss of property value.

When a similar ordinance was proposed, passed, and eventually overturned by ballot referendum in 2004, County staff estimated that the proposed setbacks, including the then-proposed 25 foot setbacks along Class III streams, would include approximately 53,000 acres along 3,200 miles of (mostly Class III) streams in Napa County, which itself is only about 45 miles long. The huge aggregate stream length and the large amount of included acreage in such a small county gives some sense of the serious consequences of such an ordinance for hillside property owners. This ordinance proposes an even larger 35 foot setback along ephemeral streams, which seems likely to include more than 70,000 acres. Regardless of the precise number of acres, this is a huge land grab which cannot be justified by undemonstrated and immeasurably small incremental gains in water quality.

Unintended consequence #2 –More severe wildland fires with more property damage in the future

The general prohibition on tree and brush removal without a use permit, with exemptions for fire hazard reduction only to the extent required by and under the direction of Cal-Fire, discourages

property owners from reducing fuel loads and fire hazards beyond the 100 foot minimum required by Cal-Fire. This is counter-productive, and will result in future fires more destructive than they otherwise would be. We should be finding ways to encourage property owners to reduce fire hazard, not discouraging them by imposing limits and setbacks, requiring permits and County review, and thereby exposing them to frivolous lawsuits (see Unintended consequence #4).

On my property I have cleared all the underbrush from my 12 acres, plus another 3 acres or so along the mile long driveway through neighbors' properties, making a shaded fuel break from Dry Creek Road to the top of the ridge. I would not have done that if it had required a permit, and I will not maintain it if maintaining it requires a permit. I think other property owners feel the same way. At the point where the County wants to micromanage us and our properties, we may rationally decide that it is therefore the County's responsibility to reduce the fire hazard. If we want property owners to take responsibility for fire hazard reduction beyond the required minimum, we should be encouraging them, not continuing to put more obstacles in their way. This ordinance will result in fewer property owners taking the initiative I have taken, which will result in less fire hazard reduction work taking place, an undesirable outcome.

This ordinance will also result in fewer new vineyards in the hills, and those few that will be developed will be smaller. This may be one of the intended consequences of the ordinance, but that is a misguided goal. The more important unintended consequence will be wildfires of increased size and intensity, harder to stop, and resulting in more property damage and environmental damage. The Nunns fire, which eventually approached to within 400 yards of my property, was stopped at a vineyard. CAL-FIRE made a firebreak from the southwest corner of the Brandlin Ranch Cuvaision vineyard to Mount Veeder Road, and another firebreak from the northeast corner of that same vineyard to Dry Creek Road.

The mile long vineyard was an essential component of the fire-fighting effort, not only for self-extinguishing the fire along the edge of the vineyard, but also as a base for operations including overnight camp for fire fighters, fire truck access, hose laying crew and supply access, water tender access, observation posts for managing fire suppression efforts, and helicopter water source. Hillside and ridge-top vineyards are our fire breaks. If the Cuvaision vineyard had not been there, and if the north wind had picked up, the Nunns fire might have swept into Brown's Valley with results similar to those in Santa Rosa. Any ordinance that increases the risk of wildfire is ill-advised. In light of the expected increase in frequency and intensity of wildfires, we need more vineyards, not fewer. This ordinance should be modified to encourage, not discourage the development of more hillside vineyards.

Unintended consequence #3 – Unaccountability for land management mistakes

The person who lives and works on the land is best positioned and has the best incentive to properly care for it, and is therefore more likely to make the best decisions on how to manage it. Someone at a Planning desk in Napa can never be as familiar with it as the owner, and is therefore not as well positioned to make the best decisions about how to manage it.

In addition, the permitting official is never accountable for his mistakes. If a poor decision is made to prohibit shrub removal and this later causes property loss in a fire, it is the owner's loss, not the bureaucrat's, and the bureaucrat responsible for the loss would never be held to account. The property owner who bears the consequences, costs, and rewards of his management decisions is going to make better decisions than some bureaucrat who has no skin in the game.

This is particularly problematic when the permitting officials are under political and legal pressure by vocal and persistent tree-huggers who also have no skin in the game. Under such pressure the permitting officials are more likely to err on the side of restraining property owners, which could put the property owner, his property, and his family in jeopardy. Authority to make these decisions should remain with the only people accountable for any errors, i.e., the property owners.

Unintended consequence #4 –putting property owners at the mercy of radical environmentalists

This ordinance may not come right out and say that it requires a permit for any tree or shrub removal for fire hazard reduction, but the exclusion for *required* fire hazard reduction measures begs the question, “who decides what is required fire protection”? I believe that implicit in the ordinance is the notion that a permit will be required for any vegetation removal, be it a single tree, poison oak, scrub oak, or underbrush, in order to allow someone at the County or at Cal-Fire to review it and decide whether it conforms to the requirements of the ordinance. Requiring a permit for this work would be a major disservice to property owners, not only for the hassle and expense involved, but also for exposing them to frivolous lawsuits by radical environmentalists.

Requirement of a permit for common property management activities puts the property owner at the mercy of the most radical environmentalist. Napa County has a long history of being sued by radical environmentalists for its permitting decisions, and this is the reason why every permittee now must indemnify the County and agree to defend it at his own expense in the event of a lawsuit. What this means in practice is that any property owner who cannot afford tens of thousands or hundreds of thousands of dollars in legal fees to defend his permit application in court is at the mercy of any radical environmentalist or irate neighbor who wants to file a suit to challenge his permit.

This is not mere speculation. I remember a time when the County was sued by the Sierra Club and lost, resulting in the local president of the Sierra Club being physically in the Planning Department, reviewing applications and telling staff which ones they could approve and what modifications must be made in order for the County not to be sued again. It is the permit itself, along with the required indemnity that creates this legal jeopardy. Napa County has a responsibility not to put its property owners in this kind of jeopardy, and should revise this ordinance to eliminate any need for permits for common land management activities, or else reject this ordinance in order to avoid this disastrous consequence.

Unintended Consequence #5 - Unfairly imposing all the costs of obtaining public benefits on a few people

This regulation is being proposed with the intent to secure certain environmental benefits for the many, but as it is currently written, all of its costs will be imposed on just a few thousand rural property owners. These new restrictions deprive land owners of legitimate use of their properties and impose severe costs on those who choose to try. Whatever amount of marginally cleaner water that may accrue to everyone as a result of this ordinance, it will come at great cost to the property owners whose land lies within the proposed stream setbacks, which land will essentially be confiscated for public conservation easements. If these benefits are truly worth the cost of obtaining them (which I doubt), then those costs should be borne by those who benefit, i.e., the County as a whole, not those few who are victimized by this ordinance.

Unintended Consequence #6 – misallocation of resources by over-paying for nebulous benefits

It is likely that Napa County already has enough environmental protections and associated land use restrictions, and that further restrictions will not be cost-effective. The natural environment here is not deteriorating and does not seem to be in danger, other than from natural events like fires and floods. Other than hysterical ravings by the ever-present, very vocal, and tiny tree-hugging minority, there is nothing to suggest that additional restrictions might be necessary or even beneficial, let alone cost-effective. With our watershed already in such good shape, any further gains in water quality will likely be immeasurably small. The proposed additional restrictions seem arbitrary and may just be items on the wish list of some folks who feel all warm and fuzzy whenever any new environmental restrictions are enacted, regardless of real benefit, and regardless of cost.

To avoid misallocation of scarce resources, Napa County should quantify the costs to land owners as well as the benefits to the public and perform a full cost/benefit analysis of the impacts of the ordinance so an informed decision can be made about whether the benefits justify the costs. Imposing severe costs on already overburdened land owners to achieve nebulous or immeasurably small improvements in water quality would not be cost-effective and should not be done.

Have the promoters of this ordinance identified any specific problems that need to be solved, and if so, have they demonstrated that these proposed restrictions are the best and most cost-effective way to solve those problems? If not, then the planning Commission should not approve this ordinance.

Unintended Consequence #7 – Public backlash

This is not new. In 2003 and 2004 we went through the same process. The Board of Supervisors instructed staff and the Planning Commission to come up with a Stream Setback Ordinance. Community response was overwhelmingly negative. Hundreds of people showed up at Planning Commission meetings, then later at Board of Supervisors meetings, voicing strong objections. Despite the public outcry against it, the Board of Supervisors passed the ordinance unanimously. Opponents organized as the Napa Valley Land Stewards Alliance and immediately circulated a ballot referendum petition, which qualified for the ballot, putting the ordinance temporarily in abeyance. At the next election, the Stream Setback Ordinance was overturned by voters by 65% to 35%, nearly two to one, and the ordinance never went into effect.

The backlash did not stop there. Infuriated by such a brazen attempt to steal their land, and desiring to prevent such unfair attacks in the future, the Napa Valley Land Stewards Alliance proposed and qualified a ballot initiative called the Fair Payment for Public Benefit Act, which would require just compensation to land owners for future regulatory takings. Initial polling indicated that it, too, would pass by two to one. Through the most costly election campaign in Napa County history, opponents turned that around and defeated the Fair Payment for Public Benefit Act at the next election. Will it be so lucky next time?

This ordinance is similarly brazen, saying exceptions will be made only to the extent necessary to avoid a “taking” under the Fifth Amendment of the U.S. Constitution. Courts have declared that a Fifth Amendment taking does not occur as long as any value remains in the property. This means the County can legally take or destroy 90% or maybe even more of our property value without having to pay us

anything. It is the clearly stated intention of this ordinance to take the maximum allowable amount that would not trigger mandatory compensation under the Fifth Amendment. That is clearly not fair, is a brazen attack on property rights, and is the reason why people naturally favor a solution like the Fair Payment for Public Benefit Act. To prevent such an outcome, this ordinance should include fair compensation for any significant damage it causes to property value, or the ordinance should be abandoned.

Aside from the predictable unintended consequences I have listed, there may be others. In addition, some of the *intended* consequences of this ordinance are extreme and unnecessary, and contrary to the General Plan.

The Napa County General Plan says property rights must be considered and weighed against other factors when making land use decisions. That means property rights cannot be arbitrarily infringed. An ordinance that restricts property rights without demonstrating a clear need to do so would be inconsistent with the General Plan and should be rejected on that grounds alone. Despite the boiler plate findings at the beginning of this ordinance, no real need for this ordinance has been demonstrated, which puts it in conflict with the property rights clause of the General Plan.

The requirement to maintain a minimum of 70% of the original tree canopy is arbitrary and extreme. Napa County is not losing its forests, and there is no demonstrated need to impose this requirement.

The requirement to maintain a minimum of 40% of the original shrub canopy is arbitrary and extreme. Although this might or might not be important in domestic water reservoir drainages, it has no place in the rest of the county, and serves only to restrict property owners from the beneficial use of large swaths of their property, with no discernible benefit. Also, being forced to retain our poison oak, deer brush, manzanita, and chaparral in addition to our tree canopy and all our various steam setbacks might preclude use of any of our property, as well as making it more vulnerable to fire.

The three for one tree replacement requirement is arbitrary, extreme, and punitive. What is the policy justification for this requirement? Is it the County's desire to re-forest the entire County and eliminate agriculture completely? Tree replacement, if any, should be one for one, which would maintain the current number of trees, a reasonable policy objective.

This ordinance will make nearly every hillside parcel un-developable, except by use permit, thereby imposing unnecessary costs and delays and exposing all hillside property owners to legal harassment and intimidation by radical environmentalists.

This ordinance also newly prohibits any development on slopes greater than 30%, including houses and driveways. Currently, such development is allowed only by use permit, which allows for adequate review and mitigation of any adverse impacts in these more sensitive areas. What is the justification for cutting off this avenue to development? If there is no such justification, this provision should be eliminated from the ordinance.

Hysterical fear that some big corporation is going to rape the land is not justification for tying the hands of individual property owners who are the best stewards of their own land. Perhaps any new restrictions should be levied only on owners who do not live or work on their land, or on owners of very large parcels, rather than on every good citizen in the county.

Requiring permits, enforcing new restrictions, all make it harder for responsible property owners to properly manage their land, thereby discouraging good stewardship, which in turn will help degrade the environment, increase fire hazard and the likelihood of environmental damage due to fire and post-fire erosion. Any provision that discourages voluntary stewardship is counter-productive and should be rejected.

Thank you for hearing my concerns. I hope some resolution can be found that is less harmful to property owners and to the environment.

George Bachich
4271 Dry Creek Road
Napa, CA 94558
Cell: (707) 738-5276
gbachich@sbcglobal.net

From: [Elaine de Man](#)
To: [Fuller, Lashun](#)
Subject: DRAFT WATER QUALITY AND TREE PROTECTION ORDINANCE
Date: Tuesday, February 19, 2019 11:02:00 PM
Attachments: [Comments on Draft Water Quality and Tree Protection Ordinance.pdf](#)

Good morning,

Please accept the attached comments concerning the Draft Water Quality and Tree Protection Ordinance and distribute it to the members of the Planning Commission.

Thank you,

Elaine de Man
St. Helena, CA

Concerning the Draft Water Quality and Tree Protection Ordinance

After listening to some six hours of heartfelt concern from members of the community and expert testimony from actual scientists, it was extremely discouraging to hear members of the Board of Supervisors say things like, “70% sounds good to me” or “70% is better than 60%, so we saved some trees here today.”

Comments like that fail to acknowledge the severity of the climate crisis and the contribution of deforestation to climate change, which is an actual national and global emergency. We have no time to lose. And we can’t afford to put all of our efforts into fixing “traffic” or “housing” because, as one supervisor has stated, that will “give us more bang for the buck.” Because, while we wait for *that* “bang” to start paying out, we continue to make the problem worse by destroying the one thing that is working in our favor right now. And it costs *no* bucks.

The following bullet points are from General Technical Report WO-59, “Carbon Storage and Accumulation in United States Forest Ecosystems,” prepared by the U.S. Department of Agriculture. (https://www.nrs.fs.fed.us/pubs/gtr/gtr_wo059.pdf)

- The average forest in the United States contains 158 thousand pounds per acre (1 7.7 kg/m²) of organic carbon.
- The quantity of carbon varies considerably between regions, with Pacific Coast States containing 205 thousand pounds per acre (23.0 kg/m²)
- Pacific Coast States, including Alaska, contain the highest average carbon in forest soils, 64 percent of the total.
- There are significant differences in carbon storage among forest types. . . .Douglas - fir contains the highest average carbon because of the large quantity stored in the trees.
- On average, *live* trees are *accumulating* carbon at a rate of 1,252 pounds per acre per year (0.14 kg/m²/yr)), a rate of increase of 2.7 percent of the amount stored in live trees
- Although oceans store a far greater amount of carbon than terrestrial ecosystems, our ability to manage terrestrial ecosystems is greater and likely to have a greater mitigation effect.

Let’s make it easy. Let’s say a property owner or developer wants to convert 100 acres of forest to vineyard. That forest is currently accumulating 1,252 pounds of atmospheric carbon per acre per year, or a total of 125,200 pounds of carbon *per year*.

While the ideal solution would be to not remove *any* living trees, if you were to take away 10% of the trees (assuming the 90% retention rate endorsed by the Watershed and Oak Woodland Protection Committee) that same forest could still accumulate 112,680 pounds of carbon per year.

But, if you were to take away 30%, the amount currently being considered in the draft ordinance, that same forest would now only be able to accumulate 87,640 pounds of carbon per year. That's a net loss of 37,560 pounds of carbon per year that could have been accumulated, but will instead be left in the atmosphere to contribute to climate change. Over ten years, the net cost of deforesting 30% rather than 10% will cost us 370,560 pounds of carbon that will be left in the atmosphere to contribute to global climate change. And that doesn't even take into account the impacts to the soil's ability to sequester carbon, which we are now learning has an even greater capacity.

With the current draft of the ordinance, at 70% canopy retention, at least 10,000 acres in Napa County can be deforested. Each one of those acres has the capacity to accumulate 1,252 pounds of atmospheric carbon per year, a total of 568 metric tons!

The weight of climate change does not rest on Napa County's shoulders alone. But given the current crisis, every person, every municipality, every county, state, and nation must do what they can. And here in Napa County, we can do this. To think that "saving some trees," by changing the canopy retention from 60% to 70% is enough, is to deny that there is a climate crisis. To think that focusing on traffic and housing, because it will give us the "biggest bang for the buck," is to kick the climate can down the road.

If the county wants to focus its efforts on traffic and housing, fine. But then it should call a moratorium on destroying *any* more forests and woodlands until those efforts show some positive results. At the very, very least, you should include the 90% canopy retention in the Watershed Protection Ordinance currently under consideration.

Elaine de Man
St. Helena, CA
Feb. 19, 2019

From: [Morrison, David](#)
To: [Fuller, Lashun](#); [Bledsoe, Teresa](#); [Thepkaisone, Cesselea](#)
Cc: [Anderson, Laura](#); [Bordona, Brian](#)
Subject: FW: Napa watershed protection
Date: Wednesday, February 20, 2019 12:14:20 AM

Sent with BlackBerry Work
(www.blackberry.com)

From: Val Wolf <valjwolf@yahoo.com>
Date: Tuesday, Feb 19, 2019, 8:44 PM
To: Morrison, David <David.Morrison@countyofnapa.org>
Subject: Napa watershed protection

Please do your utmost to protect our watershed from development that destroys any more of our precious carbon sequestering trees and our rural heritage. There is no more room for loss of our air filtering trees particularly after our massive losses from the horrific fires. We should be planting trees everywhere not killing any. The mono cropping and ground water poisoning by some of the industrial vineyards with bad ag practices is not conducive to the health of anything but the pocket books of the harm producers.

Thank you
Valerie Wolf
389 Franklin St
Napa CA 94559

From: [Morrison, David](#)
To: [Fuller, Lashun](#); [Bledsoe, Teresa](#); [Thepkaisone, Cesselea](#)
Cc: [Anderson, Laura](#); [Bordona, Brian](#)
Subject: FW: Our climate and survival depend on trees
Date: Wednesday, February 20, 2019 5:01:11 AM

Sent with BlackBerry Work
(www.blackberry.com)

From: Nancy McCoy Blotzke <nancymccoy@sonic.net>
Date: Wednesday, Feb 20, 2019, 12:51 AM
To: 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>, Morrison, David <David.Morrison@countyofnapa.org>
Subject: Our climate and survival depend on trees

Dear Planning Commission Members,

At this time of climate crisis, there is a recommendation to allow 30% of Napa forests to be destroyed. How many 1000s of acres is that? Even more disappointing, is a “compromise” that would allow 15% of Napa woodlands and forests to be destroyed. How many 1000s of acres is that? Way more than the 795 acres proposed in Measure C. We need to preserve all the carbon sequestration we have. Nothing has yet been developed that can take the place of trees.

Measure C itself was a compromise that ended up killing it. As I canvassed I saw how false and misleading information had voters thinking that defeating C would save 795 acres of trees. Several such people wished they had talked to me before had they voted. I am quite sure that many more than 641 people voted no on C thinking they were saving trees.

Wasn't the Strategic Planning process supposed to heal the wound around Measure C? Why did the County spend so much time and money to hear from people in the Strategic Planning process, then ignore all the input and come up with a plan that comes nowhere close to the preservations in the initiative that was already a compromise? It appears that the comments and suggestions that were made the in SP process were ignore. In the case of the groups for whom Dave Morrison was the scribe, the comments were never accurately recorded. In one group, he ignored writing the word “climate” 2 times. Finally, I had to demanded that he write the word in order to get it on paper.

I honestly had hopes that the Strategic Planning process was sincere. It certainly seemed that way with the people who were facilitating it. Now it starts looking like a sham—as if those behind the scene were hoping that it would lull people into forgetting about the issue, the science, the climate impacts, the pollution of our water, the beauty and sacredness of our natural environment— so that wealthy interests can continue business as usual.

Now you have an opportunity, no matter your past views, to make take an ethical stand. Maybe you have had reservations thinking, “Oh, wouldn't it be a nice to have a my own

vineyard in Napa Valley. Think what my high school or college friends would say.” But on the other hand, wouldn’t you rather that your children and grandchildren knew that your life had a more lofty purpose-- that you did everything you could to avoid the climate catastrophe that awaited them? You can tell them that you were able to preserve for them the exquisite beauty and habitat that gives a sacredness to this place and uplifts the hearts and spirits of those who come here.

Sincerely,
Nancy McCoy-Blotzke

From: [Dave Kearney-Brown](#)
To: [Fuller, Lashun](#)
Subject: Watershed and Oak Woodlands ordinance hearing
Date: Tuesday, February 19, 2019 4:14:27 PM

Dear Commissioners,

I want to add my voice to those of the majority of the citizens of city of Napa who support strong protections for our precious Napa County watershed and diminishing natural habitats.

We must provide frameworks to protect the environment, agriculture and our economy and to insure that these can all remain viable on a sustained basis. Neither wildlife nor the wine industry will thrive in an ecosystem whose most basic structure-the oak forests-have been stripped and plowed under. It is time to have a strong plan for saving as much as we can of our remaining natural watershed.

Specifically, any ordinance needs to include:

- A definition of "canopy" that includes any oak woodland with greater than ten percent canopy cover, aligned with the definition used by the state,
- three to one tree removal mitigation, without the inclusion of slopes that are greater than thirty percent,
- and, a tree retention requirement of ninety percent.

Thank you in advance for protecting our magnificent Napa Valley for all of us-businesses, agriculture, and future generations.

Sincerely,

David Kearney-Brown
141 Dewitt Ave.,
Napa