

From: [McDowell, John](#)
To: [PlanningCommissionClerk](#)
Subject: FW: Renewable Energy Ordinance
Date: Tuesday, December 3, 2019 1:58:19 PM
Attachments: [12-3-19 Comments Napa draft solar ordinance-signed.pdf](#)

Correspondence for Item 7B

From: Rachel Mansfield-Howlett <rhowlettlaw@gmail.com>
Sent: Tuesday, December 3, 2019 1:48 PM
To: McDowell, John <John.McDowell@countyofnapa.org>; [PlanningCommissionClerk](mailto:PlanningCommissionClerk@countyofnapa.org)
<planningcommissionclerk@countyofnapa.org>
Subject: Renewable Energy Ordinance

Dear Mr. McDowell and Clerk for the Planning Commission:

Please accept these comments on the renewable energy ordinance under consideration at tomorrow's Planning Commission hearing.

Thank you,
Rachel

Rachel Mansfield-Howlett
Provencher & Flatt, LLP
823 Sonoma Ave.
Santa Rosa CA 95404

Phone: 707/284.2378
Fax: 707/284.2387
Cell: 707/291.6585
Rhowlettlaw@gmail.com

PROVENCHER & FLATT, LLP
823 Sonoma Ave. Santa Rosa, CA 95404
Phone: (707) 284-2380 Fax: (707) 284-2387

ATTORNEYS AT LAW
Douglas B. Provencher
Gail F. Flatt

Rhowlettlaw@gmail.com

OF COUNSEL
Rachel Mansfield-Howlett
Roz Bateman Smith

December 3, 2019

Napa County Planning, Building and Environmental Services Department
John McDowell john.mcdowell@countyofnapa.org
Napa County Planning Commission
1195 Third Street, Suite 305 Napa, CA
planningcommissionclerk@countyofnapa.org

Re: December 4, 2019 Planning Commission hearing on Renewable Energy
Draft Ordinance

Via email

Dear Mr. McDowell and Planning Commissioners:

On behalf of Napa County area residents, thank you for accepting these comments on Napa County's proposed renewable energy ordinance.

In terms of the proposed ordinance's provisions for the location of commercial energy projects, the County's December 4, 2019 staff report states:

Commercial facilities are excluded from residential and agricultural zoning districts. Facilities are directed to industrial, commercial, public facility zoning districts.

Consistently, the summary the County provided in late October by John McDowell verified that all commercial energy facilities will be disallowed in agricultural and residential zoning districts. (Copy of email included below.)

We fully support these limitations on the locations for commercial energy facilities but note that the language of the ordinance does not clearly provide for the claimed restrictions. The proposed ordinance identifying the County's renewable energy policies makes a distinction between commercial energy facilities and commercial bioenergy facilities and treats the location of these facilities differently. Commercial bioenergy facilities are clearly limited to industrial

and commercial areas, whereas, the commercial energy facilities (solar) locations are not indicated and therefore appear to be allowed in any zoning use designation.

We urge the County to include provisions in the proposed ordinance that would clarify the requirement that all commercial energy facilities (solar and bio) are limited to industrial, commercial, and public facility zoning districts and prohibit their use in agricultural and residential zoning districts.

We also request that the County provide additional safeguards against foreseeable aesthetic and privacy impacts by prohibiting all energy projects from facing inhabited residential structures and be fully screened.

Another reason to support the location restrictions regards CEQA review. The County's reliance on categorical exemptions to CEQA for the adoption of the renewable energy ordinance is only appropriate if commercial renewable energy projects are limited as described – allowing their use in agricultural and residential areas cannot be supported under a categorical exemption due to the applicability of the environmental impact exception. Without these limitations in place, environmental review would be required to be conducted for the changes the County proposes to its land use plans. Allowing commercial energy projects to be developed in residential and agricultural areas would be an “unusual circumstance” that could result in a “fair argument” of environmental impacts thus prompting environmental review to be conducted prior to further consideration of the ordinance.

We don't have any comments as to the ordinance's by-right ministerial provisions for private “accessory uses”, as long as the limitations regarding generating energy is kept to 125% of permitted on-site uses and the enumerated situations where these accessory uses would be prohibited are retained.

Sincerely,

Rachel Mansfield-Howlett

Encl: Email from John McDowell

Sent: Tuesday, October 29, 2019 9:00 AM
To: McDowell, John <John.McDowell@countyofnapa.org>
Subject: Renewable Energy - Draft Ordinance

Dear Napa County Stakeholder,

Attached for your review and comment is a draft ordinance updating Napa County's development regulations for renewable energy systems. Notable components are:

- Codifies County's current practices of allowing 'accessory renewable energy systems' such as small solar systems as a matter of right, but limits the system to meeting on-site power needs of private residences, business, and agricultural uses. Applies ministerial development standards consistent with other allowed accessory uses.
- Establishes regulations for 'commercial renewable energy facilities' for power generation facilities that provide feed-in tariff power to the public utility grid.
 - o **These uses are excluded from agricultural and residential zoning districts, and allowed with a Planning Commission Use Permit in industrial, commercial, and public facility districts.**
 - o Establishes comprehensive development standards for such uses
- Codifies County's current practices of allowing emergency power generators for use during power outages. Generators limited in size to meet on-site power needs only.
- Repeals antiquated 'small wind energy' code requirements that expired in 2017.

Please direct comments or questions to John McDowell at john.mcdowell@countyofnapa.org or (707) 299-1354. A public hearing before the Planning Commission is tentatively set for November 20, 2019. Upon conclusion of the Planning Commission's recommendation, the draft ordinance will be scheduled for a public hearing before the Board of Supervisors.

Sincerely,

John McDowell

Napa County Planning, Building and Environmental Services Department

(707) 299-1354

From: [McDowell, John](#)
To: [PlanningCommissionClerk](#)
Subject: FW: Napa County Renewable Energy Ordinance - Public Comment - Renewable Properties
Date: Tuesday, December 3, 2019 1:58:43 PM
Attachments: [RP Napa Renewable Energy Ordinance Response Letter rev5 AH 191202.pdf](#)
[image001.png](#)
Importance: High

Correspondence for Item 7B

From: Aaron Halimi <aaron@renewprop.com>
Sent: Monday, December 2, 2019 5:27 PM
To: McDowell, John <John.McDowell@countyofnapa.org>; Morrison, David <David.Morrison@countyofnapa.org>; Whitmer, David <Dave.Whitmer@countyofnapa.org>; Joelle Gallagher <joellegpc@gmail.com>; Jeri Gill <JeriGillPC@outlook.com>; andrewmazotti@gmail.com; anne.cottrell@lucene.com
Cc: Wagenknecht, Brad <BRAD.WAGENKNECHT@countyofnapa.org>; Ramos, Belia <Belia.Ramos@countyofnapa.org>; Alfredo Pedroza <alfredo@apedroza.com>; Gregory, Ryan <Ryan.Gregory@countyofnapa.org>; Dillon, Diane <Diane.DILLON@countyofnapa.org>; Stephanie Loucas <stephanie@renewprop.com>; Dodd, Jeff <jdodd@coblentzlaw.com>
Subject: Napa County Renewable Energy Ordinance - Public Comment - Renewable Properties
Importance: High

Director Morrison –

Please see the attached correspondence related to needed improvements to the draft renewable energy ordinance. As someone who has worked to entitle and deliver the only utility solar project to Napa County, I ask that you review and consider the attached closely.

Thank you for your time and consideration.

Best –

Aaron

Aaron Halimi
President



(M) 530-518-7669

aaron@renewprop.com | renewprop.com

Renewable Properties, LLC
655 Montgomery Street, Suite 1430
San Francisco, CA 94111
www.renewprop.com



December 2, 2019

David Morrison, Director
Napa County Planning, Building & Environmental Services
1195 Third Street, Suite 201
Napa, CA 94559

Dear David,

RE: Napa County Draft Renewable Energy Systems Ordinance

I am writing to voice my concerns about the proposed Renewable Energy Systems Ordinance (as revised Dec. 4, 2019). When the Board of Supervisors requested attention to renewable energy regulations in the County, it asked that any future ordinance incentivize the adoption of local renewables to decrease the nation's dependence on fossil fuels and reduce GHG emissions. As an active solar market participant, local land and project owner, I believe the proposed ordinance achieves the opposite of its planned purpose – it limits renewable energy development rather than incentivizes the creation of it.

Please see some of our concerns below:

1. In general, the ordinance doesn't incentive renewables in any specific locations by providing expedited reviews and/or other incentives to developers. Rather, the ordinance limits development to only a few zoning districts and prohibits it from land use designations that are more likely to be economically viable for solar.
2. The ordinance limits solar to commercial and industrial zones, which is economically prohibitive and would essentially kill additional solar development throughout the County. To further put this into context, our project on American Canyon Road was zoned "Agricultural Watershed" and was deemed the "perfect site" for solar by many public officials. Also, it prohibits renewables on County land zoned as "Agriculture Watershed", that would be ideally suited for solar development (i.e., Landfills, airport buffer land, Napa sanitation district, Napa unified school district, etc.).
3. Subdivision (8) of Section 18.117.030 relating to "Accessory renewable energy systems development standards" unnecessarily restrictive to ground mounted solar systems and limits on-site production of renewable energy.
4. Renewables within the "built environment" (i.e., rooftop, parking lots, etc.) should go through a streamlined approval process and be approved through a ministerial process regardless of whether the power is being used for onsite consumption or sold back onto the grid. The Board specifically asked for this type of incentive.
5. Preventing solar development on parcels that fall in the Airport Land Use Compatibility Zone B is unnecessary. The primary concerns with airport land use compatibility are noise,



hazard to flights, safety on the ground and overflights. Renewables projects are not densely populated and thereby negates any concerns of noise, lights, and safety of people on the ground. As it specifically relates to solar panels, they are manufactured to absorb light, not reflect it and cause less glare than standard home window glass, snow and white concrete. Solar panels are commonplace in Zone Bs (or their equivalent) for small to large airports in throughout the country. With this in mind, allowing solar in this zone seems like one of the few truly compatible uses for these areas.

6. Subdivision (15) of Section 18.117.040 relating to “Commercial renewable energy production facilities development standards” requires the removal of graveled areas and access roads, which doesn’t properly address that these roads may have existed prior to the development of the project. Additionally, the requirement for a maintenance agreement over a period of three (3) years for all revegetated areas seems overly excessive for this low impact use that is already subjected to a decommissioning plan.
7. Subdivision (2) of Section 18.117.040.C relating to “Commercial renewable energy production facilities development standards” requires electrical distribution lines on the project site to be undergrounded but waived by the decision-making body if the undergrounding is determined to be an undue burden. How will this be determined? It is an undue burden for commercial solar projects to underground existing and newly ran distribution lines.
8. The definition of “Commercial renewable energy production facility” has a typo in subsection (2), as it currently says onsite use instead of offsite use. We believe the intent the definition is specific to offsite use and should be revised accordingly.

In conclusion, we find the proposed Renewable Energy Systems Ordinance overly restrictive with regards to the zoning districts that renewables will be allowed. If Napa is truly committed to reducing their reliance on fossil fuels, they must reconsider their ordinance as currently written. We recommend a more balanced approach where each project is considered on its own merits. Please note we are supportive of the ordinance’s development standards in Section 18.117.040 of the proposed ordinance.

Climate change is a global problem that requires local solutions. It is our hope that Napa County is willing to be part of the solution. Thank you for your time and consideration with this matter.

Sincerely,

RENEWABLE PROPERTIES

A handwritten signature in blue ink, appearing to read "A. Halimi", is written over a horizontal line.

Aaron Halimi
President
530-518-7669

From: [McDowell, John](#)
To: [PlanningCommissionClerk](#)
Subject: FW: Renewable Energy Ordinance
Date: Tuesday, December 3, 2019 2:00:48 PM
Attachments: [Blank 4.pdf](#)

Correspondence for Item 7B

From: Eileen Pereira <eileen@aston.com>
Date: Saturday, Nov 30, 2019, 9:34 PM
To: Gregory, Ryan <Ryan.Gregory@countyofnapa.org>, Ramos, Belia <Belia.Ramos@countyofnapa.org>, Dillon, Diane <Diane.DILLON@countyofnapa.org>, Wagenknecht, Brad <BRAD.WAGENKNECHT@countyofnapa.org>, Pedroza, Alfredo <Alfredo.Pedroza@countyofnapa.org>, Morrison, David <David.Morrison@countyofnapa.org>
Cc: Aston Pereira <aston@aston.com>, Laura Tinthoff <lauratinthoff@gmail.com>, David Mering <davidmeringnapa@gmail.com>
Subject: Renewable Energy Ordinance

Sent from my iPad

MEMORANDUM

TO: Chair, Supervisor Ryan Gregory, Supervisor Belia Ramos, Supervisor Diane Dillon,
Supervisor Brad Wagenknecht, Supervisor Alfredo Pedroza

FROM: Eileen Pereira
In behalf of Napa Valley Citizens for Smart Planning

RE: Commercial Renewable Energy Ordinance

Thank you in advance for your time and thoughtful consideration.

The Citizens of our Community in Napa are hugely appreciative of your direction to Napa County Planning Staff to develop the Commercial Renewable Energy Ordinance that is currently before you.

We live in and share a very special place in this Valley. It may even seem crazy that we find ourselves, together, working so hard to protect the beauty we live with. However, such is our world today. Technology, financial incentive, climate emergency, social media, all converge to imperil what we have been given, what we have inherited...or what remains of it. It is up to us to appreciate and protect what we love so deeply.

We believe, under your direction, and with a Community approach, that Planning Staff have drafted an Ordinance that will take a huge step towards directing the location of future Commercial Renewable Energy Projects to sites that are appropriate, commercial and industrial areas, instead of impacting our beautiful AG Watershed, AG Preserve and residential neighborhoods.

Every technology has its growing pains and obsolescence is always around the corner. This Commercial Renewable Energy Ordinance will help our County manage and negotiate the intricacies of Commercial Renewable Energy technology projects to optimize their benefit while protecting our community from the fallout as newer technologies come on board.

We are deeply invested in our Valley, as you are, and thank you for supporting this Renewable Energy Ordinance. We look forward to your review on December 17, 2019.