



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 3/23/2010
Agenda Placement: 9C
Set Time: 10:00 AM
Estimated Report Time: 2 Hours

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Gitelman, Hillary - Director
Conservation, Development & Planning
REPORT BY: Hillary Gitelman, Director - 253-4805
SUBJECT: Vacation Rental Ordinance Policy Discussion

RECOMMENDATION

Director of Conservation, Development and Planning to summarize stakeholder meetings related to vacation rentals in unincorporated Napa County, including the exploration and analysis of alternatives to the existing prohibition, and to seek direction regarding next steps.

EXECUTIVE SUMMARY

On December 15, 2009, the Board of Supervisors adopted an ordinance amending Section 18.08.260 of Napa County Code defining "dwelling unit" and adding a new Section 18.104.410 prohibiting transient commercial occupancies of dwelling units. The ordinance was intended to clarify a longstanding prohibition on short term vacation rentals, increase penalties and improve enforcement. The Board's action made the new ordinance effective in 180 days (June 2010) and at the same time, the Board requested that planning staff meet with stakeholders who wanted to legalize vacation rentals and explore alternatives.

Planning staff hosted two stakeholder meetings, one in January and one in February, and has received substantial input and information from vacation rental advocates in support of their position. This agenda item is intended to provide a summary of the stakeholder process, including alternatives considered and issues raised, and to provide members of the public with an opportunity to address the Board on this subject matter. After public testimony, planning staff would like further direction on next steps.

PROCEDURAL REQUIREMENTS

1. Staff report
2. Public comments
3. Board of Supervisors discussion and direction to staff

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

At the Board of Supervisors' direction, planning staff hosted vacation rental stakeholder meetings on January 27 and February 24, 2010, inviting interested members of the public to share ideas and to explore alternatives to the ordinance adopted on December 15, 2009 (attached). A summary of these meetings is provided below, along with a summary of relevant policies and regulations, and possible next steps. Meeting handouts, public comments, and other relevant information received by staff during the stakeholder process have been organized in a binder of reference material and provided to the Clerk and members of the Board separately. (A copy is available for public review at the Clerk's office, 1195 Third Street, Suite 310, and at the Planning Department, 1195 Third Street, Suite 210.)

Vacation Rentals: Prevalence, Impacts and Benefits

Many other jurisdictions allow short term vacation rentals and regulate them, both in order to avoid impacts, and to assess a transient occupancy tax (TOT). Some sample ordinances were collected during the stakeholder process, including those from Mendocino County, El Dorado County, Maui, and the City of Napa. Sonoma County is currently going through a stakeholder process to establish regulations for vacation rentals with the intention of limiting their intensity of use to that of a traditionally occupied single family home, and collects an estimated \$2 Million in TOT from vacation rentals annually.

Napa County staff and vacation rental advocates have each tried to estimate the number of dwelling units in unincorporated Napa County that are currently being used as short-term rentals (i.e. for less than 30 days) in violation of County Code. Based on a review of common websites like Vacation Rental By Owner, staff believes there could be about 250 rentals, representing about 2.5% of the County's housing stock of 10,000 dwelling units. The precise number is difficult to determine because addresses are seldom given, making it difficult to identify rentals that are within unincorporated Napa County versus those that are in one of the cities (or even an adjacent county). Also, the number of rentals fluctuate over time as owners' situations change and as owners are contacted by code enforcement staff.

The characteristics of vacation rentals also vary greatly, with some multimillion dollar houses, and some smaller dwellings. Some rentals may be owned by corporations, but many are owned by individual property owners or families. In some cases, the owners use the house regularly and/or use another house on the same property, and in other cases, the house is only used as a short term rental.

There are three main downsides or impacts that are often ascribed to vacation rentals, including the following:

1. Vacation rentals can cause nuisance impacts related to noise, traffic, etc., that are incompatible with surrounding residential properties;
2. Vacation rentals can be considered commercial uses that are incompatible with agricultural zoning and land use designations; and
3. Vacation rentals can remove housing from the housing stock at a time when Napa County has unmet housing needs.

There are also upsides or benefits that are often ascribed to vacation rentals, including the following:

1. Vacation rentals are part of Napa County's economy, providing accommodations for patrons who support local restaurants, wineries, etc.
2. Vacation rentals provide a way for property owners to generate income so they can afford to live in Napa County;
3. Vacation rentals could generate substantial transient occupancy taxes (TOT) if they were legalized; and
4. Vacation rentals can sometimes have fewer impacts than full time residences if they are used less intensively.

A longer list of potential impacts and benefits associated with vacation rentals was developed for one of the stakeholder meetings. (See reference materials.) Another list captured stakeholder ideas about permit conditions that could be applied to vacation rentals in order to address the downsides or impacts identified. These include possible limitations on the size of the parcel and the size of the house, with the thought that short term rental of large houses on large parcels would not impact neighbors or take affordable housing out of the housing stock. Other possible limitations on the list include a requirement for owner occupancy a certain percentage of the time.

Vacation rental advocates have suggested that there would be substantial economic impacts to the County if existing, illegal vacation rentals are forced to cease operation. Planning staff has neither confirmed nor disputed this suggestion, since to do so would require speculation about the alternative accommodations that guests of the existing rentals would use if the current rentals cease to exist.

Relevant Sections of Napa County Code

Since at least the late 1980s, the County has prohibited short term vacation rentals outside of commercial zoning districts by defining a dwelling unit as something that is for owner occupancy or rental on a monthly or longer basis (Section 18.08.26). The County has also had a strict definition of commercial use (Section 18.08.170), and has considered short term rentals (i.e. less than one month) to be a commercial, rather than a residential use.

Napa County Code provisions regarding home occupations (Section 18.08.310) and accessory uses (Section 18.08.020) have been interpreted narrowly, relying on terminology such as "[home occupations are] incidental to and subordinate to the use of the dwelling as a residence" and "[accessory uses are] subordinate to the main use and customarily a part thereof...clearly incidental, related and subordinate to the main use... cannot change the character of the main use." The full text of these and other relevant sections of County Code was included in a hand out distributed at the February 24th stakeholder meeting. (See reference materials.)

Relevant General Plan Policies

Vacation rental advocates have identified numerous policies in the Napa County General Plan in support of their proposal to legalize the use. These include policies in the Agricultural Preservation and Land Use Element and the Economic Development Element such as Policy E-2: "The County recognizes that tourism contributes to the economic viability of agriculture in Napa County and is an important part of the County's economy, generating jobs,

local spending, and tax revenues." (See reference materials.)

Nonetheless, General Plan, Policy AG/LU-33 clearly expresses the County's policy that short term tourist use of existing dwelling units is prohibited: "The County will promote development concepts that create flexibility, economy, and variety in housing without resulting in significant environmental impacts and without allowing residences to become timeshares, resorts, hotels, or similar tourist-type accommodations." There is also a program in the Housing Element (Program H-1c) that commits the County to "assign high priority to abatement of illegal vacation rentals, ensuring that existing dwelling units are used as residences, rather than tourist accommodations."

Other relevant sections of the General Plan include General Plan Policies AG/LU-20 and -21, regarding uses and intensities allowed in agricultural areas. These policies were enacted by the voters as Measure J (1990) and Measure P (2008) and generally limit uses to (a) agriculture and (b) one single family dwelling per parcel (except as specified in the Housing Element). There are a limited number of circumstances in which other uses are permitted in agricultural areas (e.g. legal non-conforming commercial uses), but unlike vacation rentals, these are generally articulated in other General Plan policies (e.g. Policy AG/LU-45 about legal non-conforming uses), allowing the plan to be interpreted as a whole to allow those other uses. The text of these and other relevant General Plan policies was included in a hand out distributed at the February 24th stakeholder meeting. (See reference materials.)

January 27, 2010 Stakeholder Meeting: Alternatives Exploration

The first stakeholder meeting provided an opportunity to brainstorm about possible alternatives to the "do nothing alternative" in which the County's prohibition on short term vacation rentals would stay in place, and the increased penalties adopted with the December 15, 2009 ordinance would take effect in June 2010. Stakeholders helped to identify a spectrum of possible alternatives in increasing intensity from "do nothing" to "anything goes."

Some of the interesting ideas that surfaced included the "Non-Ag Alternative," which would permit vacation rentals outside of areas designated for agriculture on the County's official land use map (General Plan Figure AG/LU-3), the "WDO Alternative," which would permit vacation rentals that are associated with a winery (on the same parcel or a different parcel), and the "Guest House Alternative," which would allow owners to rent guest houses, not dwellings. A full list of alternatives identified in the stakeholder brainstorming session was included in a hand out distributed at a small group meeting on February 17th, and at the February 24th stakeholder meeting. (See reference materials.)

The January 27th stakeholder meeting also included a discussion about concerns that have been expressed about vacation rentals and potential benefits of legalizing them, and possible permit conditions that could be put in place to ensure vacation rentals are compatible with agricultural and residential uses in the vicinity. The group overwhelmingly agreed that if vacation rentals are legalized, they should be required to pay TOT, and many suggested that private homeowners should be allowed to rent their homes part of the time, while corporations or "resorts" should be precluded from purchasing dwelling units and using them as short term rentals if feasible.

February 24, 2010 Stakeholder Meeting: Alternatives Evaluation

The second stakeholder meeting provided an opportunity to discuss potential regulatory and policy changes that would be needed to implement the alternatives identified in January. The group spent considerable time focusing on relevant General Plan policies, and staff presented an analysis of four alternatives, including sections of Napa County Code that would have to be revised to implement each alternative, the scope of required General Plan amendments, and the likelihood that approval from the voters would be required under Measure P (2008). Conclusions can be summarized as follows:

- All alternatives analyzed -- except for the "do nothing" alternative and the "guest house" alternative -- would raise concerns for affordable housing advocates and would require an amendment to the Housing Element to eliminate Program H-1c, in addition to changes to General Plan Policy AG/LU-33 and Action Item AG/LU-33.1.
- The "guest house" alternative would require changes to Napa County Code Sections 18.08.300 and 18.104.080 about guest cottages, and all other alternatives analyzed -- except the "do nothing" alternative -- would require changes to sections of Napa County Code about dwelling units (Section 18.08.260), accessory uses (18.08.020), and/or home occupations (Sections 18.08.310 and 18.104.090).
- All alternatives analyzed -- except for the "do nothing" alternative and the "non-ag" alternative -- could require approval from the voters under Measure P (2008), since the zoning and General Plan changes might result in inconsistencies with the "intent" of the Agricultural Resource and Agriculture, Watershed and Open Space designations as defined in General Plan Policy AG/LU-20 and 21.

The group spent some time discussing how an ordinance could be crafted to address concerns about affordable housing by (a) prohibiting short term vacation rentals of smaller homes and (b) requiring the owner to live on the property for a percentage of the time, and whether there was a limited rental program that could qualify as a legal, accessory use of a single family home. Staff described the low threshold that the County has historically maintained for requiring a Measure P vote (e.g. selling sandwiches at the Pumpkin Patch produce stand), and indicated that only the "Non-Ag" alternative would avoid the question entirely.

Possible Next Steps

At the close of the February 24, 2010 stakeholder meeting, staff invited attendees to participate in the presentation to the Board scheduled for March 23, 2010, and indicated that there were probably two courses of action for vacation rental advocates: (1) develop an ordinance allowing short term vacation rentals with reasonable restrictions county-wide and put that ordinance before the voters; and (2) develop an ordinance with a very restrictive program and make the legal and political argument that voter approval would not be required for an accessory use that is "incidental and subordinate" to a single family home. As a hybrid, someone also suggested (3) adoption of an ordinance allowing short term vacation rentals with reasonable restrictions in Non-Ag areas for a "test" period, before proceeding with option (1) or (2).

Planning staff is seeking Board of Supervisors direction on next steps, and would particularly like Board of Supervisors input on whether they would be willing to entertain a limited program like the one suggested in item (2), above. Specifically, would the Board like to consider amendments to the General Plan and zoning regulations to allow vacation rentals as an accessory use within single family homes above a certain size when that home is occupied by the owner for a certain percentage of the year? And if the Board of Supervisors is interested in considering such an ordinance, would they be willing to do so without putting the question before the voters pursuant to Measure P based on an argument that the proposed General Plan changes (see the first bullet above) do not result in the various policies of the General Plan being internally inconsistent? A copy of Measure P is attached for reference.

SUPPORTING DOCUMENTS

- A . Ordinance Adopted December 15, 2009
- B . List of Meeting Handouts & Stakeholder Input
- C . Measure P (2008)

CEO Recommendation: Approve

Reviewed By: Helene Franchi



A Tradition of Stewardship
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Agenda Date: 12/2/2009

Agenda Placement: 9A

Napa County Planning Commission Board Agenda Letter

TO: Napa County Planning Commission
FROM: John McDowell for Hillary Gitelman - Director
Conservation, Development & Planning
REPORT BY: Hillary Gitelman, Director - 253-4805
SUBJECT: Vacation Rentals Ordinance - P09-00485-ORD

RECOMMENDATION

VACATION RENTAL ORDINANCE - ZONING ORDINANCE TEXT AMENDMENT P09-00485-ORD

CEQA Status: It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. The project will not impact an environmental resource of hazardous or critical concern, has no cumulative impact, there is no reasonable possibility that the activity may have a significant effect on the environment due to unusual circumstances, will not result in damage to scenic resources, is not located on a list of hazardous waste sites, cause substantial adverse change in the significance of a historical resource or extract groundwater in excess of the Phase 1 groundwater extraction standards as set by the Department of Public Works. [See Class 5 ("Minor Alterations in Land Use Limitations") which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15305; see also Napa County's Local Procedures for Implementing the California Environmental Quality Act, Appendix B.] The project is also covered by the General Rule. It can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable. [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)].

Request: County-sponsored ordinance to clarify the County's prohibition on short term vacation rentals except in commercial zoning districts by clarifying the definition of a "dwelling unit" and adding a new section 18.104.410 explicitly prohibiting transient commercial occupancies of dwelling units.

Ordinance Title: AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NAPA, STATE OF CALIFORNIA, AMENDING SECTION 18.08.260 DEFINING DWELLING UNIT AND ADDING A NEW SECTION 18.104.410 PROHIBITING TRANSIENT COMMERCIAL OCCUPANCIES OF DWELLING UNITS TO THE NAPA COUNTY CODE

Staff Recommendation: That the Planning Commission conduct a public hearing and forward a recommendation of approval to the Board of Supervisors

Staff Contact: Hillary Gitelman, 253-4805, hgitelman@co.napa.ca.us

EXECUTIVE SUMMARY**Proposed Action:**

1. That the Planning Commission recommend to the Board of Supervisors that they find the proposed ordinance exempt from review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15305 (Class 5 Categorical Exemption) as provided by Napa County's Local Guidelines for Implementing CEQA, and pursuant to the General Rule (CEQA Guidelines Section 15061(b)(3)) that CEQA does not apply where it can be seen with certainty that there is no possibility of a significant impact.
2. That the Planning Commission recommend to the Board of Supervisors that they find the proposed ordinance consistent with the Napa County General Plan for the reasons articulated in this staff report and adopt the proposed ordinance.

Discussion:

Unincorporated Napa County has a limited number of legally permitted hotels, B&Bs, and other guest accommodations. A quick web search will reveal that the County also has quite a few informal vacation rentals, where property owners are renting their homes, second units, and guest houses as tourist or guest accommodations in violation of the County's zoning regulations. The Napa County Board of Supervisors has expressed an interest in improving the effectiveness of code enforcement efforts aimed at eliminating illegal vacation rentals. The proposed ordinance would clarify and update the existing prohibition on vacation rentals (except in Commercial zoning districts) by clarifying that creative ownership strategies (e.g. timeshares, vacation "clubs," etc.) are not "dwelling units" and by explicitly prohibiting transient commercial occupancy of dwelling units. At the Commission's request, the proposed ordinance has been adjusted to exempt "house swaps" from the definition of transient commercial occupancies.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. The project will not impact an environmental resource of hazardous or critical concern, has no cumulative impact, there is no reasonable possibility that the activity may have a significant effect on the environment due to unusual circumstances, will not result in damage to scenic resources, is not located on a list of hazardous waste sites, cause substantial adverse change in the significance of a historical resource or extract groundwater in excess of the Phase 1 groundwater extraction standards as set by the Department of Public Works. [See Class 5 ("Minor Alterations in Land Use Limitations") which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15305; see also Napa County's Local Procedures for Implementing the California Environmental Quality Act, Appendix B.] The project is also covered by the General Rule. It can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable. [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)].

BACKGROUND AND DISCUSSION

The Napa County General Plan and zoning ordinance permit at least one dwelling unit on every legal parcel that is zoned for agriculture or residential use. In these zoning districts, commercial uses are **generally prohibited**, and property owners who rent their dwelling units as short term vacation rentals (a commercial use) do so in violation of Napa County Code. The County has consistently prohibited short term vacation rentals because **SUCH** commercial activities can conflict with legally permitted uses (e.g. agriculture), can create a nuisance for residential neighbors, and removes housing stock from residential use at a time when Napa County has unmet housing needs.

The Napa County Board of Supervisors has long expressed an interest in improving the effectiveness of code enforcement efforts aimed at eliminating illegal short term vacation rentals, and in June 2009 adopted a Housing Element Update which included Program H-1c: "...the County's code enforcement program will assign high priority to abatement of illegal vacation rentals, ensuring that existing dwelling units are used as residences, rather than tourist accommodations."

In the past year, the Conservation, Development & Planning Department has used a three-prong approach to this issue, including (1) outreach to property owners; (2) stepped-up enforcement efforts; and (3) development of code changes clarifying the County's longstanding prohibition on short term vacation rentals. Items (2) and (3) have been undertaken in collaboration with staff in the District Attorney's office and County Counsel's office, and item (3) has resulted in the current draft ordinance (attached).

Development of the proposed ordinance has taken many months, and involved meetings with key stakeholders, including realtors and land use attorneys working in unincorporated Napa County. Input received on earlier versions of the ordinance was helpful in focusing on the most important clarifications, ensuring that the proposed changes are direct and to the point, and will provide for easier enforcement and additional penalties.

The proposed changes to County Code would clarify existing provisions of the Code, since dwelling units that are leased for less than one month have long been considered illegal vacation rentals, subject to code enforcement actions, violation abatement, and civil penalties. Because the proposed changes would clarify, rather than change, the County Code, they would have no physical environmental impacts, and are considered exempt from CEQA. They are also consistent with and implement the Napa County General Plan. (See memo attached.)

The Planning Commission opened their public hearing on this draft ordinance on November 18, 2009 and heard testimony both for and against the proposal, as well as a request for clarification/amendment to ensure that existing legal fee ownership arrangements are respected, and that "house swaps" can be exempted from the new code section about transient commercial occupancies. As a result, several wording changes have been incorporated into the attached, draft ordinance.

The Commission also requested some analysis about what other counties are doing, and a vacation rental ordinance from El Dorado County is attached. In El Dorado County, using dwelling units as vacation rentals is permitted as long as a permit is obtained and ordinance requirements are met (including payment of transient occupancy tax). Sonoma County has historically allowed vacation rentals, collecting about \$2 Million in transient occupancy tax annually, and is currently crafting an ordinance similar to El Dorado County's.

George Bachich has argued (in his letter of November 12, 2009) that interpreting or amending the County's existing ordinance to allow vacation rentals similar to Sonoma or El Dorado Counties would be consistent with the Napa County General Plan because the plan talks about "concentrating" rather than "exclusively locating" commercial uses in urbanized areas, because General Plan Goal AG/LU-5 encourages commercial uses compatible with adjacent uses and agriculture, and because vacation rentals do not hinder agricultural operations or threaten the

economic viability of agriculture. (See Mr. Bachich's letter for the full text and list of his arguments.)

Planning staff disagrees with Mr. Bachich's interpretations, and believes that both the current zoning ordinance and the Napa County General Plan support the County's existing prohibition on the use of dwelling units as vacation rentals, and both would have to be amended to eliminate this prohibition. The Napa County Code is structured so that those uses which are not enumerated as allowed are prohibited [see Section 18.12.080 which provides all uses must be in conformity with all regulations of the zoning district, and no commercial uses are permitted other than is specifically authorized under the Zoning Code]. In the zoning ordinance, the existing prohibition is expressed within the definition of a dwelling unit as something that is for owner occupancy *or rental on a monthly or longer basis* (Section 18.08.26). The existing prohibition also derives from the definition of commercial use (18.08.170) and the exclusion of **all but a few discrete** commercial uses from agricultural and residential zoning districts (see the Agricultural Preserve zoning district for example -- Sections 18.16.010 et seq.).

In the General Plan, Policy AG/LU-33 clearly expresses the County's policy that short term tourist use of existing dwelling units is prohibited: "The County will promote development concepts that create flexibility, economy, and variety in housing without resulting in significant environmental impacts *and without allowing residences to become timeshares, resorts, hotels, or similar tourist-type accommodations*" [emphasis added]. In addition, tourist accommodations are commercial uses, and conflict with General Plan Policies AG/LU-20 and -21, regarding uses and intensities allowed in agricultural areas. These policies were enacted by the voters as Measure J (1990) and Measure P (2008) and generally limit uses to (a) agriculture and (b) one single family dwelling per parcel (except as specified in the Housing Element). There are limited number of circumstances in which other uses are permitted in agricultural areas (e.g. legal non-conforming commercial uses), but unlike vacation rentals, these are generally articulated in other General Plan policies (e.g. Policy AG/LU-45 about legal non-conforming uses), allowing the plan to be interpreted as a whole to allow those other uses.

This is an important point: general plans are by definition, general, and decision makers rely on the plan as a whole, balancing potentially competing policies and priorities. In the current instance, planning staff believes that the County's longstanding commitment to directing commercial uses into urbanized areas, expressed in various ways throughout the General Plan, would preclude legalization of vacation rentals in agricultural areas (i.e. outside of an existing urbanized area as defined on General Plan p. SV-3) without a General Plan amendment.

SUPPORTING DOCUMENTS

- A . Revised Draft Ordinance
- B . CEQA & GP Memo
- C . Input Received for November 18 Hearing
- D . El Dorado County Example
- E . Additional Correspondence

Napa County Planning Commission: Approve

Reviewed By: John McDowell



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Agenda Date: 11/18/2009

Agenda Placement: 9B

Napa County Planning Commission Board Agenda Letter

TO: Napa County Planning Commission
FROM: John McDowell for Hillary Gitelman - Director
Conservation, Development & Planning
REPORT BY: Hillary Gitelman, Director - 253-4805
SUBJECT: Vacation Rentals Ordinance - P09-00485-ORD

RECOMMENDATION

VACATION RENTAL ORDINANCE - ZONING ORDINANCE TEXT AMENDMENT P09-00485-ORD

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Staff Contact: Hillary Gitelman, 253-4805, hgitelman@co.napa.ca.us

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FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. The project will not impact an environmental resource of hazardous or critical concern, has no cumulative impact, there is no reasonable possibility that the activity may have a significant effect on the environment due to unusual circumstances, will not result in damage to scenic resources, is not located on a list of hazardous waste sites, cause substantial adverse change in the significance of a historical resource or extract groundwater in excess of the Phase 1 groundwater extraction standards as set by the Department of Public Works. [See Class 5 ("Minor Alterations in Land Use Limitations") which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15305; see also Napa County's Local Procedures for Implementing the California Environmental Quality Act, Appendix B.] The project is also covered by the General Rule. It can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable. [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)].

BACKGROUND AND DISCUSSION

The Napa County General Plan and zoning ordinance permit at least one dwelling unit on every legal parcel that is zoned for agriculture or residential use. In these zoning districts, commercial uses are prohibited, and property owners who rent their dwelling units as short term vacation rentals (a commercial use) do so in violation of Napa County Code. The County has consistently prohibited short term vacation rentals because commercial activities can conflict with legally permitted uses (e.g. agriculture), can create a nuisance for residential neighbors, and removes housing stock from residential use at a time when Napa County has unmet housing needs.

The Napa County Board of Supervisors has long expressed an interest in improving the effectiveness of code enforcement efforts aimed at eliminating illegal short term vacation rentals, and in June 2009 adopted a Housing Element Update which included Program H-1c: "...the County's code enforcement program will assign high priority to abatement of illegal vacation rentals, ensuring that existing dwelling units are used as residences, rather than tourist accommodations."

In the past year, the Conservation, Development & Planning Department has used a three-prong approach to this issue, including (1) outreach to property owners; (2) stepped-up enforcement efforts; and (3) development of code changes clarifying the County's longstanding prohibition on short term vacation rentals. Items (2) and (3) have been undertaken in collaboration with staff in the District Attorney's office and County Counsel's office, and item (3) has resulted in the current draft ordinance (attached).

Development of the proposed ordinance has taken many months, and involved meetings with key stakeholders, including realtors and land use attorneys working in unincorporated Napa County. Input received on earlier versions of the ordinance was helpful in focusing on the most important clarifications, ensuring that the proposed changes are direct and to the point, and will provide for easier enforcement and additional penalties.

The proposed changes to County Code would clarify existing provisions of the Code, since dwelling units that are leased for less than one month have long been considered illegal vacation rentals, subject to code enforcement actions, violation abatement, and civil penalties. Because the proposed changes would clarify, rather than change, the County Code, they would have no physical environmental impacts, and are considered exempt from CEQA. They are also consistent with and implement the Napa County General Plan. (See memo attached.)

SUPPORTING DOCUMENTS

- A. Vacation Rental Ordinance
- B. CEQA & GP Memo
- C. Correspondence

Napa County Planning Commission: Approve

Reviewed By: John McDowell



A Tradition of Stewardship
A Commitment to Service

Conservation, Development and Planning

1195 Third Street, Suite 210
Napa, CA 94559
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Main: (707) 253-4417
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Hillary Gitelman
Director

MEMORANDUM

To: Conservation, Development & Planning Commission	From: Hillary Gitelman
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Date: November 4, 2009	Re: Vacation Rental Ordinance
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This memo is intended to provide the Commission with additional information and analysis concerning the Vacation Rental Ordinance that is scheduled for a public hearing on November 18, 2009.

Background

The use of dwelling units as vacation rentals or tourist accommodations has long been considered a commercial use, and is thus prohibited in the agricultural and residential zoning districts of Napa County. This prohibition derives from the definition of a "dwelling unit" as a residence for owner occupancy or rental/lease "on a monthly or longer basis" (Napa County Code Section 18.08.260) and the definition of "commercial use" as a use that involves "the exchange of cash, goods or services... in exchange for goods, services, lodging..." (Section 18.02.107).

The proposed ordinance would clarify the longstanding prohibition on the use of dwelling units as vacation rentals, and would neither expand nor alter existing restrictions. The ordinance's intention is to make it more clear to the reader that vacation rentals are subject to code enforcement action, violation abatement, and civil penalties, and to indicate that civil penalties may include back payment of the transient occupancy tax (TOT) that would have been paid to the County if the vacation rental had been a legal use.

CEQA Compliance

Because the proposed ordinance is declarative of existing regulations, and clarifies rather than substantively changing existing provisions of Napa County Code, the proposed ordinance is exempt from review under CEQA. Specifically, the Class 5 Categorical Exemption (CEQA Guidelines Section 15305) provides an exemption for "minor alterations in land use limitations," and is supported by language in the County's formally adopted local guidelines for implementing CEQA (Appendix B, item 14), which specifically exempts "Implementation of zone change that do not increase the maximum intensity of land use allowed." In the current instance, the proposed

ordinance involves a zoning text amendment and does not increase the maximum intensity of land use allowed, and would therefore fall within this exemption.

The proposed ordinance is also covered by the “general rule” CEQA Guidelines Section 15061(b)(3), which states that “Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.” The proposed ordinance essentially constitutes a clarification or technical amendment of an existing ordinance and would perpetuate longstanding County policies and practices. There is no evidence that the ordinance would result in development or have any direct or indirect environmental impacts. Land use designations would not change as a result of the ordinance, and the ordinance would not authorize development of undeveloped land beyond what is currently allowed.

General Plan Conformity

In terms of General Plan conformity, the proposed ordinance would perpetuate longstanding County policies restricting commercial uses in agricultural areas (see General Plan Policies AG/LU-4 and AG/LU-12 specifically), and would further Policy AG/LU-33 about residential areas: “The County will promote development concepts that create flexibility, economy, and variety in housing without resulting in significant environmental impacts and without allowing residences to become timeshares, resorts, hotels, or similar tourist-type accommodations.”

The proposed ordinance would also implement Program H-1c from the Housing Element, which states: “...the County’s code enforcement program will assign high priority to abatement of illegal vacation rentals, ensuring that existing dwelling units are used as residences, rather than tourist accommodations.” In addition, clarifications contained in the ordinance would advance Action Item AG/LU-107.1, which calls on the County to “Undertake revisions to the zoning ordinance (County Code Title 18), simplifying and reorganizing to the extent feasible so that members of the public, applicants, planners and decision –makers can more easily access information and understand code requirements.”

For all of these reasons, the proposed ordinance is consistent with the Napa County General Plan.

Notice of Intention to Circulate Petition

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the County of Napa for the purpose of updating and extending Measure J, the Agricultural Lands Preservation Initiative, passed by the voters of Napa County in 1990. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

- For the past 17 years, Measure J has succeeded in protecting valuable agricultural lands in the County from the encroachment of urban development. Because Measure J has worked so well for Napa County, there is a groundswell of support among both citizens and elected officials for extending the measure's provisions now.
- While other Bay Area counties have allowed sprawl to consume important agricultural areas, Measure J has ensured that Napa County preserves agricultural and open space lands. Measure J's approach has helped to make Napa County the cornerstone of California's booming wine industry. In recent years, Napa County vineyards and vintners have contributed tens of billions of dollars to California's economy.
- This initiative updates and extends the provisions of the Napa County "general plan," enshrined by Measure J, that protect agricultural and watershed lands in the County. Specifically, the measure readopts and reaffirms plan provisions that (1) maintain minimum parcel sizes for agricultural land, and (2) require voter approval before agricultural land can be converted to other uses.
- This initiative not only extends Measure J's provisions for another 50 years, but also ensures that its implementation will be flexible enough to make certain that Napa County meets its future obligations under State affordable housing laws.
- Adoption of this initiative would commemorate the fortieth anniversary of Napa County's "Agricultural Preserve" zoning designation, by reaffirming the County's long-term commitment to protection of agriculture, open space, watershed lands, and the quality of life that makes Napa County unique.

Signed by:

Helene Karrelman
 1102 Clark St.
 Napa, CA 94559

Al Wagner
 5029 Old Sonoma Rd.
 Napa Co. 94558

RON TADDEI
 7391 ST. HELENA HIGHWAY, NAPA, CA 94558
Volker Eisel
 3080 Lower Chiles Valley Rd.
 St. Helena, Ca. 94574

FILED

SEP 28 2007

JOHN TUTEUR
 Napa County Recorder - County Clerk
 By J. Cronin
 DEPUTY RECORDER - CLERK

To the Honorable Registrar of Voters of the County of Napa: We, the undersigned, registered and qualified voters of the County of Napa, hereby propose an initiative measure to amend the County of Napa General Plan. We petition you to submit this measure to the Board of Supervisors of the County of Napa for submission of the measure to the voters of the County of Napa at the earliest general or special election for which it qualifies. The measure provides as follows:

SAVE MEASURE J INITIATIVE

The people of the County of Napa do hereby ordain as follows:

Section 1. Findings and Purpose.

A. Nearly two decades ago, the voters of Napa County adopted Measure J in order to protect the County's agricultural, watershed, and open space lands, to strengthen the local agricultural economy, and to preserve the County's rural quality of life. Measure J has been highly successful in achieving these goals. In 2005, the Napa County Board of Supervisors declared that Measure J "has provided a significant level of agricultural protection" by maintaining minimum agricultural parcel sizes and requiring voter approval before agricultural property can be converted to other uses. The Board of Supervisors also declared that "extending the period of time that Measure J will be in effect . . . is essential if the agricultural nature of the County is to be preserved," and resolved to put the question of extending Measure J before the voters of the County. Accordingly, for the benefit of existing and future residents, visitors, and investors, the people of Napa County hereby declare their intent to reaffirm, update, and extend the provisions of Measure J for an additional 50 years.

B. As enacted in 1990, Measure J amended the Napa County General Plan to ensure that designated agricultural, watershed, and open space lands could not be redesignated and made available for more intensive development without a vote of the people. The California Supreme Court, in a landmark decision confirming the people's right to enact general plan amendments by initiative, declared that Measure J represented a reasonable attempt to ensure greater stability in land use policy, curb haphazard growth by channeling it toward already developed areas, and promote desired land uses. The Court also found that the voters could and should be trusted to keep the General Plan up to date in the future.

C. Napa County is a cornerstone of the California wine industry. Although Napa County produces only four percent of the state's wine by volume, it is responsible for about 27 percent of the sales value of California wine and more than 20 percent of the

industry's \$50 billion impact on the state's economy. Sales revenues of wine made from Napa-grown grapes exceeded \$2.3 billion in 2004. The wine and vineyard sector is also Napa County's largest employer, directly and indirectly providing nearly half of the County's total employment and generating wages of nearly \$1.4 billion. By preserving agricultural land and open space, Napa County has facilitated considerable growth in the wine industry and related development. Both the total number of acres of land planted with vineyards and the total value of the County's wine grape crop have roughly doubled since 1982.

D. While other Bay Area counties have lost important agricultural lands to sprawl since the passage of Measure J, Napa County has preserved its agricultural lands. Measure J has contributed to these trends by limiting the potential for conversion of lands designated as "Agricultural Resource" or "Agriculture, Watershed, and Open Space."

E. Measure J has not interfered with Napa County's ability to meet its affordable housing obligations under state law. Residential and other land use policies and provisions established by the Napa County General Plan have proved sufficient to address the expected increase in the County's population. According to current projections, the extension of Measure J under the terms of this initiative will not impede the County's ability to continue to meet the housing needs of all economic segments of the population, including lower and moderate income households. This initiative will promote this goal by continuing to direct housing development into areas where services and infrastructure can be provided more cost-effectively. As noted in paragraph H, below, this initiative also contains a "safety valve" exception that permits the Board of Supervisors to designate additional land for housing, but only to the extent necessary to satisfy mandatory housing obligations imposed by state law at the time the redesignation is sought.

F. The Land Use Element of the County's General Plan contains policies, attached hereto as Exhibit A and incorporated herein by reference, that protect agricultural, watershed and open space lands from the adverse effects of urban uses by maintaining large minimum parcel sizes and limiting allowable building intensity. This initiative reaffirms and readopts these policies, including related statements of intent, as amended through September 28, 2007. These policies include not only the policies reaffirmed and readopted by Measure J in 1990, but also General Plan amendments that have been made, consistent with the provisions of Measure J, on several occasions since the measure was adopted.

G. The purpose of this initiative is to ensure that the intent of Measure J – to prevent the premature or unnecessary conversion of agricultural, watershed, and open

space lands to other uses – will continue to guide land use planning in Napa County. Accordingly, this initiative provides that:

1. The General Plan provisions attached hereto as Exhibit A governing intent and maximum building intensity may not be changed except by vote of the people, and that the provisions governing minimum parcel size may not be changed to reduce minimum parcel size except by vote of the people.

2. Any 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 on September 8, 1975, as amended through September 28, 2007, attached hereto as Exhibit B and incorporated herein by reference, will remain so designated unless the land is annexed to or otherwise included within a city or town, redesignated to another land use category by vote of the people, or redesignated by the Board of Supervisors pursuant to one of the procedures set forth in Section 2.B of this initiative.

H. This initiative allows the Board of Supervisors to redesignate lands designated “Agriculture, Watershed and Open Space” or “Agricultural Resource” pursuant to its usual procedures and without a vote of the people only if certain findings are made, including (among other things) that the land is proven to be unsuitable for any form of agriculture and is not likely to be annexed to a city or town; if redesignation is necessary to avoid an unconstitutional taking of property without just compensation; or if redesignation is necessary to comply with state statutes concerning the provision of housing or the siting of solid waste facilities for solid waste generated within Napa County (or the Cities within the County).

I. For the past forty years – since the County first established an “Agricultural Preserve” zoning designation – land use policy in Napa County has been guided by two complementary principles: that agricultural lands should be protected and that development should occur in urban areas. The people of Napa County find and declare that the fortieth anniversary of the Agricultural Preserve presents an appropriate occasion to reaffirm and strengthen these principles by extending and updating Measure J.

Section 2. General Plan Amendments.

A. This initiative hereby reaffirms and readopts, until December 31, 2058, Sections 3.F.7.a, 3.F.7.c, 3.F.7.d, 3.F.8.a, 3.F.8.c, and 3.F.8.d of the Land Use Element of the Napa County General Plan adopted June 7, 1983, as amended through September 28, 2007, the true and accurate text of which are attached hereto as Exhibit A and

incorporated herein by reference. In addition, this initiative hereby reaffirms and readopts until December 31, 2058, the “Agriculture, Watershed and Open Space” and “Agricultural Resource” designations of the Napa County Land Use Map adopted by the Board of Supervisors on September 8, 1975, as amended through September 28, 2007, a reduced copy of which is attached hereto as Exhibit B and incorporated herein by reference.

B. This initiative hereby amends, and readopts as amended until December 31, 2058, Section 3.F.9 of the Land Use Element of the Napa County General Plan adopted June 7, 1983, as amended through September 28, 2007. Additions to the existing policy are shown in **bold italic** text, and deletions are shown in ~~strikethrough~~ text. Text in standard type denotes the existing General Plan policy readopted and reaffirmed by this initiative.

3.F.9 Limitations on General Plan Amendments Relating to “Agricultural, Watershed and Open Space” and “Agricultural Resource” Lands.

- a) ~~Until December 31, 2020~~ **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 Sections 3.F.7.a, 3.F.7.d, 3.F.8.a, and 3.F.8.d of the Land Use Element adopted on June 7, 1983, as amended through ~~February 1, 1990~~ **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, 2020~~ **December 31, 2058**, the provisions governing minimum parcel size for lands designated “Agriculture, Watershed and Open Space” and “Agricultural Resource” set forth in Sections 3.F.7.c and 3.F.8.c of the Land Use Element 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 ~~February 1, 1990~~ **September 28, 2007** (hereinafter “Land Use Map”), shall remain so designated until ~~December 31, 2020~~ **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, or 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 within the County).

- d) ~~Except as provided in subsection (e) below,~~ 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; and

- 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 are satisfied:
- i) The Board makes a finding that the application of Section **3.F.9.a or 3.F.9.b** 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 Section 3.F.9 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.*
- fg) 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 Elections 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*** Whenever the Board adopts an amendment requiring approval by a vote of the people pursuant to the provisions of ~~this subsection~~***Section 3.F.9***, 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 Elections Code in all matters pertaining to such an election.

Section 3. Implementation.

A. Upon the effective date of this initiative, the provisions of Section 2 of the initiative are hereby inserted into the Land Use Element of the Napa County General Plan as an amendment thereto, except that if the four amendments of the mandatory elements of the General Plan permitted by State law for any given calendar year already have been utilized in the year in which the initiative becomes effective, this General Plan amendment shall be the first amendment inserted into the Napa County General Plan on January 1 of the next year. At such time as this General Plan amendment is inserted in the Napa County General Plan, any provisions of the Napa County Zoning Ordinance, as reflected in the ordinance itself or in the Napa County Zoning Map, that are inconsistent with this General Plan amendment shall not be enforced.

B. The date that the notice of intention to circulate this initiative measure was submitted to the elections official of the County of Napa is referenced herein as the "submittal date." The Napa County General Plan in effect on the submittal date and the General Plan as amended by this initiative comprise an integrated, internally consistent and compatible statement of policies for the County of Napa. In order to ensure that nothing in this initiative measure would prevent the County of Napa General Plan from being an integrated, internally consistent and compatible statement of the policies of the County, as required by state law, and to ensure that the actions of the voters in enacting this initiative are given effect, any amendment to the General Plan that is adopted between the submittal date and the date that the General Plan is amended by this initiative measure shall, to the extent that such interim-enacted provision is inconsistent with the General Plan provisions adopted by Section 2 of this initiative measure, be amended as soon as possible and in the manner and time required by State law to ensure consistency between the provisions adopted by this initiative and other elements of the Napa County General Plan.

C. The Napa County General Plan, including the provisions amended and

readopted by this initiative, may be reorganized, and individual provisions may be renumbered or reordered, in the course of ongoing updates of the General Plan in accordance with the requirements of State law; provided, however, that the substance of Land Use Element Sections 3.F.7.a, 3.F.7.c, 3.F.7.d, 3.F.8.a, 3.F.8.c, 3.F.8.d, and 3.F.9; and the “Agriculture, Watershed and Open Space” and “Agricultural Resource” designations of the Napa County Land Use Map, as amended and readopted by this initiative, shall continue to be included in the General Plan until December 31, 2058, unless earlier repealed or amended pursuant to the procedures set forth in this initiative or by a vote of the people.

D. The County of Napa is hereby authorized and directed to amend the Napa County General Plan, all specific plans, the Napa County Zoning Ordinance, the Napa County Zoning Map, and other ordinances and policies affected by this initiative as soon as possible and in the manner and time required by any applicable State law, to ensure consistency between the policies adopted in this initiative and other elements of the Napa County General Plan, all specific plans, the Napa County Zoning Ordinance, the Napa County Zoning Map, and other County ordinances and policies.

E. Except as provided in Section 4 of this initiative or as otherwise required by State or Federal law, upon the date of insertion of the provisions of Section 2 of this initiative into the Napa County General Plan, all General Plan amendments, rezonings, specific plans, tentative subdivision maps, parcel maps, conditional use permits, building permits or other ministerial or discretionary entitlements for use not yet approved or issued shall not be approved or issued unless consistent with the policies and provisions of this initiative.

Section 4. Exemptions for Certain Projects.

A. This initiative shall not apply to any development project or ongoing activity that has obtained, as of the effective date of this initiative, a vested right pursuant to State or local law.

B. This initiative shall not be interpreted to apply to any land or use that, under state or federal law, is beyond the power of the local voters to affect by the initiative power reserved to the people via the California Constitution. Nothing in this Initiative shall be applied to preclude the County’s compliance with state laws governing second units or the use of density bonuses where authorized by state law.

Section 5. Severability and Interpretation.

This initiative shall be interpreted so as to be consistent with all federal and state laws, rules, and regulations. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion of this initiative is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this initiative. The voters hereby declare that this initiative, and each section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion thereof would have been adopted or passed even if one or more sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, parts, or portions are declared invalid or unconstitutional. If any provision of this initiative is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this initiative that can be given effect without the invalid application. This initiative shall be broadly construed in order to achieve the purposes stated in this initiative. It is the intent of the voters that the provisions of this initiative shall be interpreted by the County in a manner that facilitates the protection for agricultural, open space, and natural resource uses of areas within the "Agriculture, Watershed and Open Space" and "Agricultural Preserve" land use designations readopted and reaffirmed herein.

Section 6. Amendment or Repeal.

Except as otherwise provided herein, this initiative may be amended or repealed only by the voters of the County of Napa.

[P:ASAVE JMAT 1\kpb007 (final initiative text).wpd]

Exhibit A

Exhibit A, attached, contains the true and accurate text of Sections 3.F.7.a, 3.F.7.c, 3.F.7.d, 3.F.8.a, 3.F.8.c, and 3.F.8.d of the Land Use Element of the Napa County General Plan adopted June 7, 1983, as amended through September 28, 2007, which are reaffirmed and readopted in Section 2.A of this initiative.

Proponent's Note:

The provisions enclosed by bold lines are the provisions reaffirmed and readopted by this initiative.

7) Agriculture, Watershed and Open Space

a) Intent

To provide areas where the predominant use is agriculturally oriented; where watershed areas, reservoirs, floodplain tributaries, geologic hazards, soil conditions and other constraints make the land relatively unsuitable for urban development; where urban development would adversely impact on 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.

b) General Uses

Agriculture, processing of agricultural products, single family dwelling.

c) 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."

d) Maximum Building Intensity

One dwelling per parcel (except as specified in Housing Element). Non-residential building intensity is non-applicable.

Proponent's Note:

The provisions enclosed by bold lines are the provisions reaffirmed and readopted by this initiative.

8) **Agricultural Resource**

a) **Intent**

To identify areas in the fertile valley and foothill areas of the County in which agriculture is and should continue to be the predominant land use, where uses incompatible with agriculture should be precluded and where the development of urban type uses would be detrimental to the continuance of agriculture and the maintenance of open space which are economic and aesthetic attributes and assets of the County of Napa.

b) **General Uses**

Agriculture, processing of agricultural products, single family dwelling.

c) **Minimum Parcel Size**

40 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."

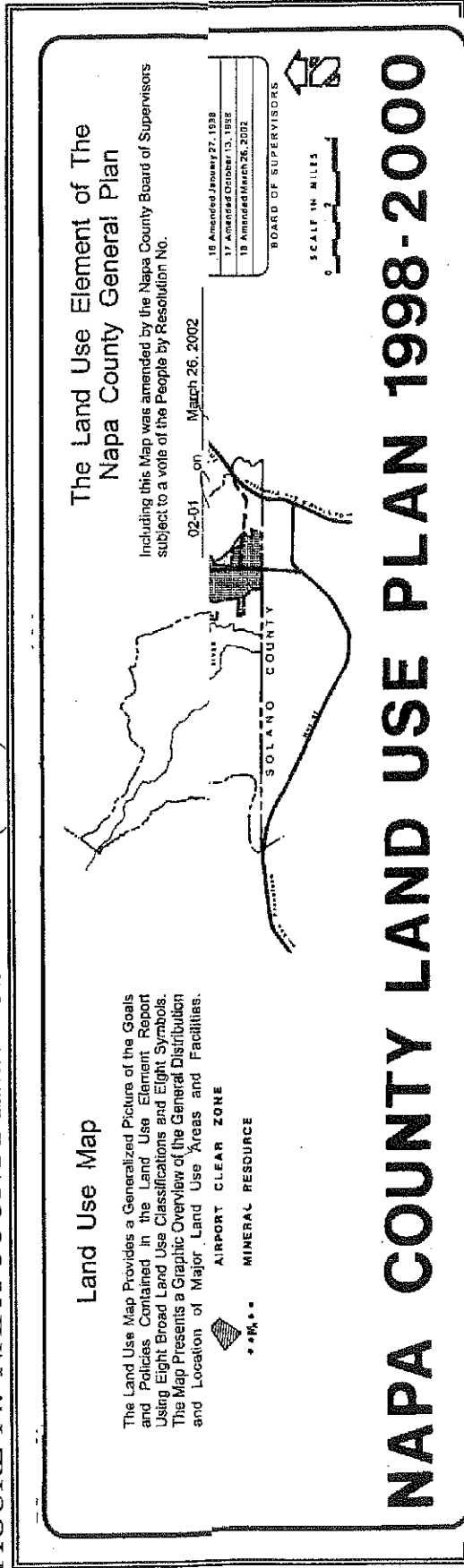
d) **Maximum Building Intensity**

One dwelling per parcel (except as specified in Housing Element). Non-residential building intensity is non-applicable; but where practical, buildings will be located off prime soils.

Exhibit B


Exhibit B, attached, contains a reduced copy of the Napa County Land Use Map adopted by the Board of Supervisors on September 8, 1975, as amended through September 28, 2007, which depicts the “Agriculture, Watershed and Open Space” and “Agricultural Resource” designations reaffirmed and readopted in Section 2.A of this initiative.

FIGURE 14: NAPA COUNTY LAND USE PLAN (MAP) 1998-2000



Signed Statement of Initiative Proponent
(Elections Code § 9608)

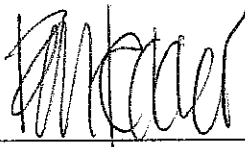
I, Melvyn Kannelman, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.



Dated this 26 day of September, 2007

Signed Statement of Initiative Proponent
(Elections Code § 9608)

I, RON TADDEI, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

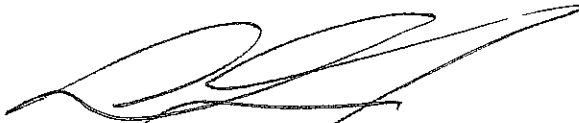


A handwritten signature in black ink, appearing to read "Ron Taddei", written over a horizontal line.

Dated this 20th day of SEPTEMBER, 2007

Signed Statement of Initiative Proponent
(Elections Code § 9608)

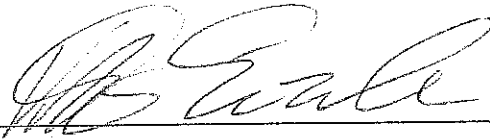
I, Al Wagner, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.



Dated this 25 day of September, 2007

Signed Statement of Initiative Proponent
(Elections Code § 9608)

I, Volker Eisele, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.



Dated this 28 day of September, 2007