

NOV 05 2020

## Planning &amp; Building Services



DATE: November 4, 2020

TO: Members of the Mendocino County Board of Supervisors  
Members of the Mendocino County Planning Commission

RE: Mendocino County Oak Tree &amp; Oak Woodlands Protection Ordinance

On behalf of the North Bay Association of REALTORS®, thank you for allowing us to comment on the draft Oak Tree & Oak Woodlands Protection Ordinance. Like you, we place a high value on conservation and environmental protection. However, as proposed, this Ordinance could potentially render parcels unbuildable or unimprovable in ~70% of the county. **Given this potential, we urge the County to deliberate the practical implications on a variety of parcels/uses and consider the following input, inquiries and recommendations:**

**Engagement:** We would have welcomed engagement on the development of this substantial policy alongside the other impacted stakeholders. Mandates on residential and agricultural property of this magnitude should be presented in an accessible way so those regulated have an authentic opportunity to understand and respond.

**Unintended Consequences:** Housing and homeowners appear to be caught in the crossfire following years of strife over cannabis. Eagerness to advance cannabis should not thwart the process that this land use decision requires. **Some elements are out of step with nearby Counties and could impose insurmountable limits on housing creation and improvement on smaller parcels.**

**Exemptions:** We appreciate areas where residential parcels are excluded – but including any residential property over 1-acre in size; and all roads, driveways, accessory units, etc. would subject homeowners to extreme mitigation mandates with little to no off-site alternatives.

1. **Scope:** How many developed and undeveloped 1+-acre parcels would be affected?
2. **Exempt Is Not Exempt:** Owners would still be required to hire a Qualified Professional to report on a limitless scope of concerns, in addition to a registration form.
3. **Recommendation:** Exempt remodels, affordable and Class K housing, or offer alternative pathway at the Director's approval.
4. **Recommendation:** Exempt fire rebuilds (as neighboring counties have)
5. **Recommendation:** Exempt a broader scope of fire prevention and home-hardening mandates from existing (and future) requirements from insurance providers, and local, state, and federal legislation.
6. **Recommendation:** Accessory units (as part of an existing and/or newly established SFD) should be exempt to enable housing creation for families, renters, etc.

**Mitigation Ratio:** The proposed 8:1 and 16:1 mitigation ratios are some of the highest we have experienced. Without a clear system of achievable off-site alternatives, costs could skyrocket, or property owners could be effectively barred from building or improving their property.

1. **Rationale:** What rationale led to the proposed ratios and structure? Napa requires a 3:1 mitigation ratio, with an option of 2:1 if a public benefit project is approved by the Director. Sonoma and El Dorado offer a range of options, mainly an in-lieu fee or off-site mitigation.
2. **Housing Goals:** How will this Ordinance avoid impacting the development of new housing? We need hundreds of units across a spectrum of uses and income levels; projects barely pencil now.
3. **Recommendation:** Align replacement ratio with neighboring/similar Counties (3:1 with public option and accessible off-site mitigation structure)

**Mitigation Options:** Without an accessible in-lieu or off-site mitigation option, small property owners will quickly become unable to utilize, build on or improve their parcels; it is simply not possible to host 8 - 32+ new trees on a 1.01+-acre parcel, especially when other encumbrances are in play (well, septic, stream, building envelope, etc.).

1. **Recommendation:** Create an accessible off-site mitigation option; common models include land banks, conservation easement programs, etc. (specify the costs prior to adoption).

2. **Recommendation:** Allow on-site mitigation in stream setbacks and other encumbrances; a 1-acre parcel is substantially encumbered just by the standard encumbrances alone, leaving very little space for expansion, accessory units, or the planting of 8-32 trees.
3. **Recommendation:** The Ordinance allows **mitigation alternatives**, as approved by the County **and** CA Department of Fish & Wildlife. The Director commonly retains authority to approve alternatives, rather than two levels of government. **The Director should retain sole authority to approve alternatives.**

#### Other Inquiries

1. How does this proposal diverge from similar/neighboring counties? Why?
2. Will multi-family residential projects be subject in the unincorporated area?
3. What is the anticipated (comprehensive) cost to an owner to replace 1 Native/Heritage Oak?
4. What is the anticipated (comprehensive) cost to an owner to replace 1/2-acre of Oak Woodlands?
5. What is the appeal process if the County or CDFW denies alternative mitigation proposals?

#### **Our Housing Economy**

Residential development remains one of our most essential, most costly endeavors – competing public goals and preferences have discouraged new units across all levels of affordability. Please do not deprive property owners of legitimate use of their parcels or impose insurmountable costs on those who choose to try to invest in Mendocino County. **As our housing shortage intensifies amid escalating costs of production, local jurisdictions are intentionally removing barriers to housing and homeownership – please continue that vital effort.**

Thank you for considering our comments. Please consider us a partner as we seek solutions to our housing and conservation challenges in Mendocino County. Should you have any questions or opportunities for engagement, please contact Lisa Badenfort, Public Affairs Director, at (707) 636-4292, or [lisa@northbayrealtors.org](mailto:lisa@northbayrealtors.org).

Respectfully,

*Carol Lexa*

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Carol A. Lexa  
President  
North Bay Association of REALTORS®

*Richard Selzer*

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Richard Selzer  
Chair, Local Government Relations Committee  
North Bay Association of REALTORS®

cc:

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The North Bay Association of REALTORS® is a four-county trade association representing ~3,800 real estate professionals and industry affiliates. We serve as an advocate for a sustainable housing economy and the preservation of property rights. In addition to advocacy, we work as a resource to decision-makers and the public on housing and other quality of life issues facing the North Bay.