



**City of St. Helena**  
**Special City Council Meeting**  
**Wednesday, July 8, 2020 @ 6:00 PM**

In accordance with Executive Orders N-25-20, N-29-20, and guidance from the California Department of Public Health on gatherings, remote public participation is allowed. We will address the Order in the following ways: Members of the public may not physically attend meetings. The City Council meeting will be live-streamed on Comcast Channel 28 and on the City's website, barring technical difficulties. Those members of the public wishing to participate must do so remotely via Zoom electronic meetings in the following ways; by either logging onto the Zoom link located on the meeting agenda (please download the app to your computer or mobile device) and enter the meeting ID or by calling a listed number and enter the meeting ID. Public comment for City Council meetings will be accepted via email to [publiccomment@cityofstheleena.org](mailto:publiccomment@cityofstheleena.org).

**Please see the end of the agenda for detailed PUBLIC PARTICIPATION instructions.**

Please click the link below to join the meeting: <https://us02web.zoom.us/j/81149701761>

Or iPhone one-tap :

US: +16699006833,,81149701761# or +13462487799,,81149701761#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 669 900 6833 or +1 346 248 7799 or +1 253 215 8782 or +1 301 715 8592 or +1 312 626 6799 or +1 929 205 6099

Meeting ID: 811 4970 1761

International numbers available: <https://us02web.zoom.us/j/81149701761>

**PLEASE NOTE: Any person who wishes to speak regarding an item on the agenda or make a comment under the "public comment" portion of the agenda may do so, but please observe the time limit of four minutes.**

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1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL  
Mayor: Geoff Ellsworth, Vice Mayor: Paul Dohring, City Council Members:  
Anna Chouteau, David Knudsen and Mary Koberstein
4. PUBLIC COMMENT:  
Under California law, public comments at special meetings are limited to subjects on the agenda only. Therefore public comment will take place during consideration of the item. Each person's comments shall be limited to 4 minutes.
5. NEW BUSINESS:

- 5.1. Initiative Measure Prohibiting Hotel/Motel Development on Public Land Located at the Corner of Library Lane and Adams Street  
(~~Staff report forthcoming~~ Provided 7-6-20)

7 - 100

CEQA Determination: Not a CEQA project. Environmental review of a voter petition-initiated measure is not required. Tuolumne Jobs & Small Business Alliance v. Superior Court (City of Sonora), (2014) 59 Cal. 4th 1029

Prepared By: Kara Ueda, City Attorney

Recommendation:

Decline to place the measure on the ballot.

[Staff Report - Pdf](#)

[Public Comment.Alan Galbraith](#)

[Public Comment.Lorraine Ruston](#)

[Public Comment.Shari C Harmon](#)

[Public Comment.Kimberly and David George](#)

[Public Comment.Linda Rose](#)

[Public Comment.Richard Seiferheld](#)

[Public Comment.Mariam Hansen](#)

[Public Comment.Christine Hale](#)

[Public Comment.Philippa Ward](#)

[Public Comment.Thomas W. Allen](#)

[Public Comment.Elaine Honig](#)

[Public Comment.Oliver and Karen Caldwell](#)

[Public Comment.Tom Belt](#)

[Public Comment.Pat Dell](#)

[Public Comment.Grace D Kistner](#)

[Public Comment.Andrew J Navone](#)

[Public Comment.Nancy Dervin](#)

[Public Comment.Sharon Dellamonica](#)

[Public Comment.Susan Kenward](#)

[Public Comment.Douglas Barr](#)

[Public Comment.Mark Smithers](#)

[Public Comment.Nancy Dervin 2](#)

[Public Comment.Nancy Dervin 3](#)

[Public Comment.Jack Stuart](#)

[Public Comment.Nancy Dervin 4](#)

[Public Comment.Nancy Dervin 5](#)

[Public Comment.Anne Carr](#)

[Public Comment.Sierra Club Napa Group Executive Committee](#)

[Public Comment.Ann Nevero](#)

[Public Comment.Holly Rogers](#)

[Public Comment.Steven Kinney](#)

[Public Comment.Peter Scott](#)

[Public Comment.Glenn Smith](#)

6. ADJOURNMENT

The next Regular City Council meeting is scheduled for July 14, 2020, at 6:00 p.m.

I do hereby certify that a copy of the foregoing agenda was posted on the City website on July 2, 2020.



Cindy Tzaopoulos, City Clerk

In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please call the City Clerk's Office (707) 967-2792. Notification 72 hours prior to the meeting as required by Section 202 of the Americans with Disabilities Act will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

**THE CITY OF ST. HELENA ENCOURAGES ONLINE PUBLIC  
PARTICIPATION IN  
VIRTUAL CITY COUNCIL MEETINGS**

St. Helena, CA— The City of St. Helena is committed to public participation in City government in a manner that is consistent with guidance provided by the Napa County Public Health Official and Governor Newsom's Executive Order N-25-20. These guidelines relate to social distancing, and are intended to protect everyone by limiting the spread of COVID-19 in our community. In adherence to these guidelines, the St. Helena City Council will host a Virtual Council Meeting on Zoom; a free teleconferencing tool that enables users to watch and/or call into the meeting from their computers or phones. This meeting will be open to public and allows for live public comment. The meeting will also be recorded, livestreamed, and posted on the City's website after the adjournment of the meeting if technical difficulties occur: <https://sthelena.civicweb.net/Portal/>

**The ZOOM web link, meeting ID, and phone number will be listed at the top of the City Council Meeting Agenda. You will be required to enter the meeting ID, but there will be no password or participant ID.**

**How to Watch or Listen to Council Meetings:**

1. Watch on Comcast Channel 28
2. Watch the livestreaming video on the City's website
3. Watch and Listen on Zoom.us by clicking on the link in the Council Agenda
4. Listen only by calling the Zoom number listed on the Council Agenda

**Watch Council Meeting by Joining the Zoom Meeting:**

**1. By Computer, Tablet, or Smart Phone:**

- a. Before joining the virtual City Council Meeting, it is highly encouraged that you download the Zoom App. To sign up for your own free account, visit [zoom.us/signup](https://zoom.us/signup) and enter your email address. You will receive an email from Zoom (no-reply@zoom.us). In this email, click Activate Account.
- b. If you are logged into your account, Enter the **Meeting ID** listed on the City Council Agenda. If you have not created an account go to: <https://zoom.us/join> and enter the **Meeting ID**

- c. Select if you would like to connect audio and/or video and tap **Join Meeting**.
- d. For specific instructions for your device, go to: <https://support.zoom.us/hc/en-us/articles/201362193-Joining-a-Meeting>

**2. Listen Only by Telephone:**

- a. **Dial** the number listed on the Council Agenda.
- b. At the prompt, enter the **Meeting ID** provided on the top of the City Council Meeting Agenda and **Press #**. **A participate ID is not required.**
- c. To disconnect from the meeting, hang up the phone.

**Ways to Provide Public Comment:**

While attending the virtual City Council Meeting, the public will have the opportunity to provide live public comment during Public Forum and after each agenda item. When it is the appropriate time for public comment the Mayor will verbally open public comment. At this time each individual is permitted 4 minutes to speak.

**1. Send a Public Comment in Advance to [publiccomment@cityofsthelena.org](mailto:publiccomment@cityofsthelena.org)**

The easiest way to provide public comment is to email your public comment. Public comments may be emailed to [publiccomment@cityofsthelena.org](mailto:publiccomment@cityofsthelena.org). Please include in the subject line "COMMENT TO COUNCIL and the AGENDA ITEM". Any public comment is required to be submitted no later than 1 hour before the scheduled meeting and will be included as an attachment to the agenda.

**2. Provide Comment through Zoom meeting from a computer, tablet, or smart phone**

This option allows the public to virtually attend the meeting as a muted 'attendee' with no video or screen sharing capabilities. You will be able to see and hear those participating in the meeting, but they will not be able to hear you until the host unmutes you.

If you wish to provide public comment during a specific agenda item or during public forum, you can use the "**raise hand**" feature located in the control panel at the bottom of your screen. The icon is a small blue hand. In Windows you can also use the Alt+Y keyboard shortcut to raise or lower your hand. In Mac you can also use the Option+Y keyboard shortcut to raise or lower your hand.

The host will be notified that you've raised your hand and you will be placed in a queue with all incoming requests.

When it is your turn to speak, you will be notified that the host has unmuted you. To be removed from the queue, just click the '**raise hand**' button again.

**3. Call in to the ZOOM meeting from a cell phone or landline phone only**

This option allows the member of the public with the opportunity to verbally participate in public comment.

If you wish to speak during public comment time dial **\*9** on your telephone.

The host will be notified that you would like to speak and you will be placed in a queue with all incoming requests.

When it is your turn to speak, you will be notified that the host has unmuted you. You may press **\*9** again if you wish to be removed from the queue.

You will be notified at the end of your statement that you have been muted.





Report to the City Council  
Special City Council - 08 Jul 2020

**Agenda Section: NEW BUSINESS:**

**Subject: Initiative Measure Prohibiting Hotel/Motel Development on Public Land Located at the Corner of Library Lane and Adams Street**

**CEQA Determination: Not a CEQA project. Environmental review of a voter petition-initiated measure is not required. Tuolumne Jobs & Small Business Alliance v. Superior Court (City of Sonora), (2014) 59 Cal. 4th 1029**

**Prepared By:** Kara Ueda, City Attorney

**Reviewed By:** April Mitts, Finance Director

**Approved By:** Maya DeRosa, Planning & Building Director/Acting City Manager

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**BACKGROUND**

During the City Council's June 9, 2020 Regular City Council meeting, the City Council considered the Initiative Measure Prohibiting Hotel/Motel Development on Public Land Located at the Corner of Library Lane and Adams Street and approved of staff's recommendation to have a report prepared pursuant to Elections Code section 9212. That report is required by law to be presented to the City Council within 30 days of it being ordered. That report is provided with this staff report. This staff report also expressly incorporates the provisions of the June 9, 2020 staff report (provided as an attachment for convenience) concerning the initiative measure.

Elections Code section 9212 authorizes the City Council, after being presented with a duly qualified initiative measure, to request a report regarding the potential impacts and effects of a proposed measure. An initiative is the mechanism by which the voters may directly enact law.

When the City Council enacts an ordinance, it typically does so with the benefit of staff reports and public meetings to analyze and evaluate the proposed law. The Section 9212 report is similar to a staff report, but its purpose is to inform both the Council and

the voters about the initiative measure with one critical difference from a typical City ordinance. The City Council may not make any changes to the text of a proposed initiative measure.

### **OPTIONS**

Upon receipt of the report prepared pursuant to Elections Code section 9212, the City Council now has the following options:

1. Adopt the proposed initiative measure, as written, within 10 days after this meeting.
2. Submit the proposed initiative measure, as written, to the voters at the next regular municipal election occurring at least 88 days after submission. The City's next regular municipal election (when Council members are up for election) occurring at least 88 days later is November 3, 2020. Staff notes that the City Council will be considering a resolution to call the November 2020 General Municipal election during its regular July 14, 2020 City Council meeting. If the Council so directs during this meeting, Staff will also add to the July 14, 2020 City Council agenda appropriate language to place the initiative measure on the November 3, 2020 ballot as well.
3. Decline to place the measure on the ballot after finding that the initiative measure does not propose to adopt a legislative act as required by California law.

### **DISCUSSION**

The proposed initiative measure, if adopted by a majority of the voters voting on the measure in St. Helena, purports to protect in perpetuity from any hotel or motel development the 5.6 acres of land owned by the City at the corner of Library Lane and Adams Street, adjacent to the library and commonly referred to as the "Adams Street property." Despite some technical irregularities in the initiative petition, the City Clerk, in consultation with the City Attorney, deemed the petition to be in "substantial compliance" with the Elections Code and the petition contained sufficient signatures to qualify the measure for the November 2020 ballot.

The City Council could choose to adopt the initiative measure as written. The City Council could also choose to place the measure on the November 2020 ballot. If the Council desires to do so, staff will prepare language in a resolution for the City Council's consideration during its July 14, 2020 regular City Council meeting.

Alternatively, the City Council could choose not to adopt the measure or to place it on the ballot and to instead take no action. The attached report, prepared in accordance with Elections Code Section 9212, provides a legal analysis of the measure as well as

potential impacts of the initiative if it is approved by the voters. As noted in the attached report, it is the opinion of the City Attorney that the initiative measure does not propose a legislative act, does not provide any direction as to how to implement its purpose, and is potentially void for vagueness.

#### **FISCAL IMPACT**

There would be no immediate fiscal impact related to adopting the initiative measure as written or by choosing not to place the measure on the ballot. If the City chooses to place the initiative measure on the ballot, the City will incur additional costs related to paying Napa County for election services for this special election. However, since the City Council's regular municipal election will also occur in November, the anticipated cost would be less than if the City Council called a separate, stand-alone special election.

The attached report discusses potential impacts the Initiative could have on the City's finances if the Adams Street Property is prohibited from having a hotel/motel built on it.

#### **RECOMMENDED ACTION**

Decline to place the measure on the ballot.

#### **ATTACHMENTS**

[Initiative Measure to be Submitted to Voters](#)

[Section 9212 Report](#)

[Exhibit A -1 Adams St. Property Map](#)

[Exhibit A - 2 Adams St. Parcel Report](#)

[June 9, 2020 City Council Staff Report](#)

### **PUBLIC PROPERTY PROTECTION ACT**

The People of the City of Saint Helena do ordain as follows:

The 5.6 acres of public land at the corner of Library Lane and Adams Street (parcel #009-150-006, adjacent to the library and commonly referred to as the Adams Street property) shall be protected in perpetuity from hotel/motel development of any kind.

This is a simple YES vote if you want to protect the Adams Street property from hotel/motel development or a NO vote if you do not want to protect the property from hotel/motel development. This initiative will have no measurable fiscal impact on either the citizens or the City of Saint Helena.

**City of St. Helena**  
**Elections Code Section 9212 Report on the Initiative Measure Prohibiting Hotel/Motel**  
**Development on Public Land Located at the Corner of Library Lane and Adams Street**

**July 8, 2020**

**I. Introduction**

The City of St. Helena (“City”) received a signed petition for the Initiative Measure Prohibiting Hotel/Motel Development on Public Land Located at the Corner of Library Lane and Adams Street (the “Initiative”). The City Clerk, in conjunction with the Napa County Registrar of Voters, confirmed that the Initiative received sufficient signatures to either be placed on a future ballot, or adopted by the City Council without change. While numerous signatures were not fully compliant with the Elections Code for failing to include the name of the City, the City Clerk determined that the signatures were in substantial compliance with the law; and the County Registrar had been able to verify the signatures against registered voters’ signatures on file.

During its June 9, 2020 regular City Council meeting, the City Council directed City staff to prepare a report pursuant to Elections Code Section 9212 that would, in accordance with the terms of section 9212, address the following issues:

- The Initiative’s fiscal impact
- The Initiative’s effect on the internal consistency of the City’s General Plan, including the housing element, the consistency between planning and zoning, and the limitations on City actions under Section 65008 and Chapters 4.2 and 4.3 of the Government Code, which generally relate to housing production and requirements that protect against housing discrimination
- The Initiative’s effect on the use of land, the impact on the availability and location of housing, and the ability of the City to meet its regional housing needs
- The Initiative’s impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses
- The Initiative’s impact on the community’s ability to attract and retain business and employment
- The Initiative’s impact on the uses of vacant parcels of land
- The Initiative’s impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization

The remainder of this report provides a summary of the Initiative, elaborates on legal concerns raised by the City Attorney, and briefly addresses each of the potential impacts listed above. It is also important to note what this report is not. It is not a detailed financial analysis of

the consequences for not having a hotel or motel on the Adams Street Property; nor is it an environmental impact report or other environmental study. Rather, it serves as something similar to a staff report and relies on the best information available to City staff at the time of its writing.

## **II. Summary of Initiative**

The Initiative states in its entirety:

The People of the City of Saint Helena do ordain as follows:

The 5.6 acres of public land at the corner of Library Lane and Adams Street (parcel 009-150-006, adjacent to the library and commonly referred to as the Adams Street property) shall be protected in perpetuity from hotel/motel development of any kind.

This is a simple YES vote if you want to protect the Adams Street property from hotel/ motel development or a NO vote if you do not want to protect the property from hotel/ motel development. This initiative will have no measurable fiscal impact on either the citizens or the City of St. Helena.

The Initiative, if adopted by a majority of the voters voting on the measure in St. Helena, would purport to protect in perpetuity from any hotel or motel development the 5.6 acres of land owned by the City at the corner of Library Lane and Adams Street, adjacent to the library and commonly referred to as the “Adams Street property” (the “Property”). The Property is near Main Street and is comprised of vineyards that border the St. Helena Public Library and Library Lane to the southwest and Adams Street to the southeast.

The Initiative would not amend either the General Plan or the Zoning Code. Pursuant to state law, the Initiative would only be permitted to be amended by a future vote of the people, and the City Council would not be permitted to amend it on its own.

## **III. Legal Analysis**

### **A. Power of Initiative and Referendum Reserved for Legislative Acts**

The electorate’s power of initiative and referendum is granted by the California Constitution. An amendment to the California Constitution in 1911 providing for the power of initiative and referendum “signifies one of the outstanding achievements of the progressive movement of the early 1900’s.” *Associated Home Builders etc., Inc. v. City of Livermore* (1976) 18 Cal.3d 582, 591. The power is described not as a right but as a reserved power. *Id.* The Legislature established procedures to facilitate the power of initiative and referendum, and the Elections Code specifies certain procedures to be followed for the placement of a city initiative to be placed on the ballot.

However, the power of the initiative and referendum is not unlimited. An initiative measure must enact a law in order to be a valid measure subject to voter approval. In the case of

a city, that measure is typically in the form of an ordinance. Regardless of how the measure is framed, the measure must propose to enact a legislative act. “Legislative acts generally are those which declare a public purpose and make provisions for the ways and means of its accomplishment.” *Fishman v. City of Palo Alto* (1978) 86 Cal.App.3d 506, 509. The courts have allowed measures to be kept off the ballot if the electorate does not have the power to adopt the measure by initiative. *Citizens for Responsible Behavior v. Superior Court* (1991) 1 Cal.App.4th 1013, 1023.

For example, an initiative measure adopted by the voters that directed the City Council to amend a general plan and zoning ordinance in order to effectuate the measure exceeded the electorate’s initiative power. *Marblehead v. City of San Clemente* (1991) 226 Cal.App.3d 1504. Similarly, a proposed initiative measure directing the city council to use its informed judgment to adopt ordinances regarding chain stores and affordable housing was held to not be a proper use of the initiative power. *Widders v. Furchtenicht* (2008) 167 Cal.App.4th 659.

In determining if an initiative measure enacts a law, the substance, rather than the form, controls. *American Federation of Labor v. Eu* (1984) 36 Cal.3d 687, 710; *Hopping v. Council of City of Richmond* (1915) 170 Cal. 605 (resolution could be subject to referendum). Thus, two different parts of the Initiative should be examined. First, the format of the Initiative has been reviewed. The Initiative is not framed as an ordinance to be adopted by the voters. It appears that an attempt may have been made to have it appear as an ordinance as the Initiative contains the phrase “The People of the City of Saint Helena do ordain as follows. . .” However, the rest of the text is not styled as an Ordinance. It does not purport to enact law, and it would not amend the Municipal Code. Second, the contents of the Initiative have been reviewed. The substantive text of the Initiative itself would not enact a legislative act. The Initiative would not amend a section of the Municipal Code (such as the Zoning Code); nor would it amend the General Plan. In accordance with the *Fishman* case above, a legislative act generally declares a public purpose and then makes provisions for the ways and means to accomplish that purpose. The Initiative here makes a general proclamation that the Property would be protected in perpetuity from hotel/motel development but makes no provisions for how such purpose is to be accomplished or by whom.

#### B. The Initiative Does Not Address Implementation and is Not a Legislative Act

As noted above, the Initiative does not include provisions for how to effectuate the Initiative’s purpose of protecting the Property from hotel/motel development. Unlike typical ordinances adopted by the City Council that set forth allowable conduct or rules for land uses, the Initiative does not set forth any means by which its purpose would be implemented. See *American Federation of Labor v. Eu* (1984) 36 Cal.3d 687, 714 (initiative is improper if it does “something other than enact a statute”).

It is unclear how the City would implement the Initiative if it is approved by a majority of the voters voting on the measure. The Initiative states that, if adopted, the Property “shall be protected in perpetuity from hotel/motel development of any kind.” The Initiative, however, does not state how the Property would be protected. The clearest way for the Initiative to have done so would have been by amending the General Plan, the Zoning Code, or both. Either or both of those would be considered a legislative act subject to the power of initiative.

Case law provides that amending the General Plan and/or the Zoning Code would be considered legislative acts but that other actions the Initiative could have directed would be considered improper administrative acts. For example, if the Initiative directed the City Council to further implement the Initiative by amending the General Plan and/or the Zoning Code, that would not be considered a legislative act. *Widders v. Furchtenicht* (2008) 167 Cal.App.4th 659. The Initiative also could not have directed the City to place some type of restriction on the property as a piece of City-owned property as that would likely be considered an administrative, rather than a legislative, act. *City of San Diego v. Dunkl* (2001) 86 Cal.App.4th 384, 399 (“The electorate has the power to initiate legislative acts, but not administrative ones” and explaining that administrative acts include those assigning powers to the executive department and that are necessary to carry out legislative policies and purposes already declared by the legislative body).

If the City Council were to amend the General Plan designation, the Initiative does not provide any information as to what such designation should be. Neither does the Initiative provide any information as to how the Property should be rezoned. Such a rezoning, if it occurred, could be viewed as “spot zoning,” or zoning of one particular piece of property in a manner that is different from the other adjacent parcels around it. It is also unclear if the City should place some type of overlay zone on the Property.

C. Potentially Void for Vagueness.

Courts have struck down initiatives as void for vagueness. For example, the court in *Citizens for Jobs and the Economy v. County of Orange* (2002) 94 Cal.App.4th 1311 reviewed an initiative measure with a purpose of requiring voters to approve of new or expanded jail facilities, hazardous waste landfills, and airport projects, by a two-thirds vote. The court stated that in order to succeed on a vagueness claim, the law must be “impermissibly vague in all of its applications.” *Id.* at 1334-1335, citing *Evangelatos v. Superior Court* (1988) 44 Cal.3d 1188. The court noted that terms in the initiative such as allowing the County to expend funds “as may otherwise be required by state or Federal law” were impermissibly vague. The court stated that the initiative’s language circumscribed the Board’s discretion, but it was impossible to tell to what extent such discretion was circumscribed. *Id.* at 1335. The court noted that it was not possible to determine whose decision it would be to make a decision about whether spending is necessary.

The Initiative here could similarly be struck by a court as void for vagueness. In addition to the lack of clarity regarding implementation of the Initiative, the Initiative does not define “hotel/motel.” It is unclear, for example, if a proposed condominium building offering timeshares would be considered a hotel/motel or if a residence built on the Property that later wanted to convert to a bed and breakfast would be allowed to operate or if it would be considered a hotel/motel. Alternatively, an apartment or condominium project could offer units for both sale and short-term occupancy, but it is unclear if such use would be considered a hotel/motel. Additionally, other potential overnight lodging options that could be considered a hotel or motel might include an inn, hostel, private club, campground space, or recreational vehicle use space. The City considers many of these uses (as well as others) to be “hotels” for purposes of its transient occupancy tax. It is unclear whether the Initiative would apply to all of these uses or whether it would only apply to what the City in its discretion determines is a hotel

or motel. The Initiative does not provide any direction as to how the City should interpret the term “hotel/motel.”

Moreover, the Initiative reads more like an advisory measure than an initiative enacting a legislative act. An advisory measure is a question on the ballot for the sole purpose of allowing voters to express their opinion on an issue or to inform the City Council about the electorate’s approval or disapproval of a ballot measure. An advisory measure does not bind the City Council to a particular course of action but does provide Council with the voters’ perspective. Advisory measures do not enact legislative acts as they do not propose a statutory enactment. However, the initiative proponent did not label the Initiative as an advisory measure, and presumably the proponent intends for the Initiative to somehow become law if approved of by a majority of the voters voting on the Initiative.

D. Conclusion

In light of the above, it is the opinion of the City Attorney that the Initiative does not propose a legislative act, is an impermissible use of the initiative power, and would likely be determined to be impermissibly vague.

#### **IV. Elections Code Section 9212 Report on Impacts**

This section of the report sets forth the impacts, in accordance with Elections Code section 9212.

A. Fiscal Impact of Initiative

1. *Tax Revenue*

The City’s General Fund is funded primarily by three different taxes: property tax paid by property owners, sales tax paid by consumers, and transient occupancy tax paid by hotel guests and collected by the hotel on behalf of the City. Pursuant to Section 3.28.020 of the City’s Municipal Code, each hotel guest pays a tax in the amount of twelve percent (12%) of the rent charged by the hotel operator.

The Initiative, if adopted by the voters, would prohibit a motel or hotel from being developed on the Property. Hotels, when operating at or near capacity, have the potential to generate a significant amount of revenue for the City, due in large part to the collection of the transient occupancy tax. For each room stay, a hotel guest is charged 12% as a transient occupancy tax, all of which goes to the City’s General Fund. If the Property were to have a motel or hotel on it, the City would receive property taxes on both the assessed value of the hotel building and the property (assuming the Property is sold to a private entity). As a City-owned piece of property, the City currently neither pays nor receives property taxes from the Property. Development of the Property with a hotel or motel would also generate sales taxes, both in the form of purchases made at the hotel itself (potentially including restaurants, spa services, and retail uses) as well as in purchases made throughout the City. The specific amount of sales taxes that could be generated with a hotel on the Property would be dependent on the number of rooms

(and thus the number of hotel guests) as well as the various on-site entertainment and dining options (including, for example, restaurants, bars, meeting rooms, stores, and spas).

The City's Financing Infrastructure Task Force recently prepared its final report, dated May 26, 2020. The Task Force recommended the City approve two hotels as the best way for the City to fund the various infrastructure improvements the City is considering. The Task Force report also noted that other uses (such as housing, office, retail, winery, restaurant, or cultural developments) would generate half as much revenue as a hotel would.

In 2018, news reports stated that Napa County experienced an occupancy rate of 71.1% in its hotels and an average room rate of \$324.80. Based on a review of current room rates in St. Helena, the average room rate is likely higher in St. Helena than in Napa County. The amount of money that the City would receive from a transient occupancy tax would depend on the number of rooms available, the occupancy rate of the hotel, and the amount the guests paid for their stay.

## 2. Other Economic Benefits

The City has also considered the Property to be a potential revenue generator if developed with a hotel. The City issued an RFP for hotel development on the Property in June of 2016, and noted that it would consider, among other things, the overall financial benefits of a proposed hotel project. Such benefits would include an overall economic benefit to the City of St. Helena's General Fund, the employment impact by directly creating construction and on-site hotel jobs, and the direct and indirect spending a hotel project could generate.

Additionally, the City owns the Property and could potentially sell it to a private developer. One of the hotel developers who submitted a proposal presented an offer of \$20 million to purchase the Property and also noted the significant development impact fees the City would collect from a hotel project. While the City would retain its ability to sell the Property to a private developer for a different type of project (perhaps a retail or mixed-use project), the City's ability to sell the Property to a private developer for future hotel development would presumably be prohibited if the Initiative is adopted by the voters.

## B. Initiative's Effect on the Internal Consistency of the City's General Plan, Housing Element and the Consistency Between Planning and Zoning

### 1. *Consistency with General Plan*

In June 2019, the City of St. Helena adopted a new General Plan. The St. Helena General Plan is comprised of the following twelve elements: (1) Land Use and Growth Management; (2) Economic Sustainability; (3) Public Facilities and Services; (4) Circulation; (5) Historic Resources; (6) Community Design; (7) Open Space and Conservation; (8) Public Health, Safety and Noise; (9) Climate Change; (10) Housing; (11) Parks and Recreation; and (12) Arts, Culture and Entertainment.

The Land Use and Growth Management Element and the Economic Sustainability Elements are perhaps the most applicable to the Initiative. The purpose and intent of the Land Use and Growth Management Element is to create a framework to manage growth by drawing from and building upon the community's distinct history, walkable and strong neighborhoods,

and active downtown. The purpose of the Economic Sustainability Element is to build upon St. Helena's authentic small-town character to establish a path to enhancing the local quality of life while also valuing the role of visitors in the local economy.

The Property is a 5.6 acre piece of property located in the downtown area at the corner of Adams Street and Library Lane, as noted in the attached Exhibit A, attached hereto and incorporated herein. The new General Plan amended the land use designation of 13 different sites throughout the City, and the Property was one of those 13 sites. This site now has a General Plan designation of Central Business (CB), which the General Plan describes as follows:

*“ The CB land use designation includes retail and commercial uses that serve local residents and the surrounding area. Typical CB uses include offices, restaurants, specialty retail and lodging, with particular emphasis on pedestrian-oriented retail and service uses on the ground floor level and offices located on upper floors. Residential uses can be considered for upper floor areas but are subject to discretionary use permit review and approval. The maximum allowable FAR in CB-designated areas is 2.0. The CB district extends from Sulphur Creek along Main Street to midway between Adams Street and Pine Street, west to Oak Avenue and along the north side of Adams Street east of Main Street. ”*

Thus, absent the Initiative, a motel/hotel development on the Property would be permissible under the CB General Plan land use designation as lodging is an expressly contemplated land use for this designation. Additionally, numerous General Plan policies encourage visitor serving uses, as follows:

#### Land Use and Growth Management:

*LU3.1 Strengthen the downtown as the City's social and cultural core, and as the primary center of retail services. Facilitate a healthy mix of retail and commercial uses, residential development, entertainment, and lodging.*

#### Economic Sustainability:

*ES1.E Provide development incentives for new visitor-serving businesses to develop affordable workforce housing either through construction of housing or payment of an appropriate in lieu fee to develop housing elsewhere in the city. Such incentives shall include consideration of visitor-serving uses in Medium Density Residential or Higher Density Residential where a project provides affordable housing or an appropriate payment of an in lieu fee.*

*ES2.1 Support the development of responsible, visitor-serving components to the City's economy as a valuable source of jobs, tax revenues, and cultural amenities. Promote policies that facilitate and encourage this type of sustainable economic development.*

*ES2.2 Encourage visitor-serving uses oriented toward an upscale market, consistent with the Valley's reputation as a producer of world-class wines. Discourage the introduction of uses that are dependent upon a mass tourist market.*

*ES2.6 Expand lodging in the downtown area to encourage walking, biking, and alternative transportation modes in order to reduce the need for automobile trips.*

*ES2.A Continue to prohibit formula restaurants, chain discount stores, and time-share lodging projects (excluding Fractional Ownership Lodging). Consider destination membership clubs and other potential lodging options that contribute to the Transient Occupancy Tax (TOT) revenue stream subject to a conditional use permit.*

*ES2.B Study and recommend guidelines for permitting lodging uses in a range of land use designations, and ensure that the requested uses will not result in significant adverse impacts to the community while recognizing that the hotel taxes provide a valuable source of revenue for the City. Remove the cap on the number of hotel and motel rooms.*

Economic Sustainability policies encourage upscale lodging and economic activity in the downtown. If the Initiative is adopted by the voters, the City would not be able to implement all of the possible uses permitted within the CB General Plan designation on the Property. Neither could the City implement some of the General Plan policies on the Property related to lodging downtown. Instead, the Initiative would reduce the City's options for downtown lodging and potentially reduce economic activity downtown and tourism. Given the limited other sites in the downtown for future hotel development, eliminating the Property as a hotel site could impact the City's future fiscal income and also create the potential for negative impact on downtown businesses that are dependent on visitors to maintain profitability. (See Draft Downtown Economic Study, available online:

<https://sthelena.civicweb.net/document/23872/Downtown%20Economic%20Strategy.pdf?handle=CC2D8D86C1564523AB8DB728305878B3>)

Regarding the Housing Element, adoption of the Initiative by the voters would not be anticipated to affect the City's ability to meet its Regional Housing Needs Allocation (RHNA) obligations as part of the adopted Housing Element. The Housing Element identifies the site on the list of vacant and underutilized sites (site #33). With an approved use permit, housing development would still be able to occur on the site in conjunction with commercial development. There is the potential that future hotels make significant contributions towards the City's affordable housing fund to offset impacts to workforce housing.

The Property is not within any adopted Specific Plan.

## 2. Consistency with Zoning Code

Similar to the General Plan designation, the Property is zoned Central Business (CB) District in the Zoning Ordinance. The purpose of the CB District is to allow for retail, personal service uses, offices, restaurants, hotels/motels, service stations, public and quasi-public uses and similar and compatible uses that serve local residents and the surrounding area. The intent is for the CB district to remain primarily local resident-serving in character. New uses that serve both local residents and tourists are allowed. The Zoning Code currently has restrictions in place

related to hotel development, including that a hotel requires approval of a use permit, and all hotel rooms must be on an upper floor.

A prohibition of motels and hotels in this zoning district would not significantly impact the purpose of the district as it has an emphasis on local serving uses. However, it is important to note that the City is in the midst of creating a new zoning ordinance, and it has not yet been determined what changes are recommended to the uses in this district or how to specifically bring the zoning districts into conformance with the new updated General Plan.

3. Limitations on City Actions under Section 65008 of the Government Code and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code

Government Code Section 65008 concerns discriminatory practices that inhibit the development of affordable housing or emergency homeless shelters. Chapter 4.2 of the Government Code, commencing with Section 65913, concerns affordable housing, and Chapter 4.3, commencing with Section 65915, concerns density bonuses.

The Initiative would not have any effect upon City actions related to the above noted sections of the Government Code.

C. The Initiative's Effect on the Use of Land, the Impact on the Availability and Location of Housing, and the Ability of the City to Meet its Regional Housing Needs

State law requires the City to update its Housing Element on a regular basis and to have the Housing Element reviewed by the Department of Housing and Community Development (HCD) for compliance with State law. HCD reviewed and approved of St Helena's Housing Element (Chapter 11 of the City's General Plan) in 2015. The Housing Element contains plans to meet the City's share of the Bay Area's housing needs, referred to as the City's Regional Housing Needs Allocation, or RHNA. For the period from 2015 to 2023, State law requires that the City make sites available for at least 31 housing units to meet regional needs.

The Housing Element contains a Vacant and Underutilized inventory, which includes the Property. However, the Property is not included on the City's Housing Opportunity Sites list within the Housing Element and therefore not determined to be a priority housing development area. The CB zoning district allows the construction of residential housing, but it must occur above a first floor with the approval of a use permit by the Planning Commission. Therefore, the Initiative would not limit the ability of Property to provide future non-transient/permanent housing nor would it impact the ability of the City to meet its regional housing needs.

D. Initiative's Impact on Funding for Infrastructure of All Types, Including, But Not Limited to, Transportation, Schools, Parks, and Open Space

As noted above, the City's Financing Infrastructure Task Force recently prepared its final report, dated May 26, 2020. The City Council created this Task Force of citizen volunteers to review and analyze the financing options for the possible construction of new or remodeled civic

institutions in St. Helena as well as other infrastructure, such as storm drains and downtown streetscape. As noted above, the Task Force recommended the City approve two hotels as the best way for the City to fund the various infrastructure improvements the City is considering. Included in “Option 2” of the Task Force’s report is development of a hotel on the Property. The Task Force report made certain assumptions about the hotel type, amenities, and number of rooms that would be offered based on the past proposals the City received. This report does not repeat those numbers as it is speculative as to whether a hotel with those specific amenities and room would be offered by a potential hotel built on the Property.

However, the Task Force report noted that other uses (such as housing, office, retail, winery, restaurant, or cultural developments) would generate half as much revenue as a hotel would, which is why the Task Force recommended City approval of two hotels.

E. Initiative’s Impact on the Community’s Ability to Attract and Retain Business and Employment

If the Initiative is adopted by the City’s voters, the City would lose the temporary construction jobs that would be needed for hotel construction as well as the permanent jobs that would be created with a new hotel. However, the Property could still be used for other allowable uses, which could also generate construction jobs as well as permanent retail jobs.

If the Property were eliminated from consideration for a hotel site, the City would obviously need to look for other properties upon which a new hotel could be opened and operated. Visitors to the Napa Valley will likely spend more money in St. Helena if they stay overnight in the City rather than in a neighboring city as they will not only pay for the hotel but will also be more likely to eat more often in St. Helena and make more purchases in the City.

F. Initiative’s Impact on the Uses of Vacant Parcels of Land

The Initiative would prevent a motel or hotel from being developed on the Property, but it would not preclude such development from occurring elsewhere in the City. The Property is the only vacant parcel of land within the CB Zoning District; although it is possible for an underutilized parcel (such as the former City Hall site) to be reused for a hotel. If adopted by the voters, the Initiative would result in a more limited inventory of land available for new hotels to be constructed within the City limits. As noted on Table 2-1 of the General Plan, only 4% of the land use acreage in the City is designated for commercial development. Also, according to the General Plan, a hotel downtown could help minimize or mitigate certain environmental impacts, such as traffic and parking.

G. Initiative’s Impact on Agricultural Lands, Open Space, Traffic Congestion, Existing Business Districts, and Developed Areas Designated for Revitalization

The Initiative would not necessarily result in the preservation of agricultural lands or open space. The Initiative also would not necessarily ease traffic congestion as the Property could provide the opportunity for other commercial development to occur within the limitations of the CB zoning district. The surrounding downtown business district relies on the foot traffic of visitors to maintain profitability. Without a focused fiscal study of other hotel development sites

and how the loss of this one hotel development site impacts the local business economy, it is premature to make any definitive strong conclusions on impacts to the business districts.

Adams Street Parcel Local Vicinity Map



Parcel Report for { 009150006000 }

Developed by Napa County GIS  
[GISStaff@CountyOfNapa.org](mailto:GISStaff@CountyOfNapa.org)



Environmental Data

|                                                                                                                                                                                         |                                                                                                                  |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------|
| Alquist Priolo Faults:                                                                                                                                                                  | No Alquist Priolo faults found                                                                                   |
| Archaeology:                                                                                                                                                                            | Archaeological sites found                                                                                       |
| California Planar Coordinate:                                                                                                                                                           | CU245                                                                                                            |
| CalVeg:                                                                                                                                                                                 | AG - Agriculture<br>UB - Urban/Developed<br>* Multiple results found. For more information, see report footnote. |
| CalWater Watershed:<br>Hydrologic Region (HR)<br>Hydrologic Unit (HU)<br>Hydrologic Area (HA)<br>Hydrologic Sub Area (HSA)<br>Super Planning Watershed (SPW)<br>Planning Watershed (PW) | HR: San Francisco Bay<br>HU: San Pablo<br>HA: Napa River<br>HSA: Napa River<br>SPW: Larkmead<br>PW: Heath Canyon |
| Faults:                                                                                                                                                                                 | No Faults found                                                                                                  |
| FEMA Flood Zone:                                                                                                                                                                        | Parcel not in FEMA Flood Zone                                                                                    |
| Fire Hazard Severity:                                                                                                                                                                   | No Fire Hazard Severity rating found                                                                             |

## Parcel Report for { 009150006000 }

Developed by Napa County GIS  
[GISStaff@CountyOfNapa.org](mailto:GISStaff@CountyOfNapa.org)

|                         |                                                   |
|-------------------------|---------------------------------------------------|
| <b>GW Ordinance:</b>    | Parcel not in Groundwater Deficient Area          |
| <b>Landslides:</b>      | No Landslides found                               |
| <b>Local Drainage:</b>  | Napa River - Upper St. Helena Reach               |
| <b>Soil Type:</b>       | Cortina very gravelly loam, 0 to 5 percent slopes |
| <b>Special Species:</b> | Special Species found                             |
| <b>Spotted Owls:</b>    | No Spotted Owls found                             |

### HazMat Releases - Local Oversight Program (LOP) (within 1500 ft):

|                              |
|------------------------------|
| ABRUZZINI PROPERTY           |
| CITY OF ST. HELENA T         |
| HELEN PASCHICH ESTATE        |
| MAIN STREET SERVICE          |
| ST HELENA CHEVRON            |
| ST HELENA PLAZA              |
| ST. HELENA PETROLEUM (EXXON) |
| VCS #5                       |
| Vintage Beacon               |

### HazMat Releases - Non-Local Oversight Program (Non-LOP) (within 1500 ft):

|                               |
|-------------------------------|
| Abruzzini                     |
| Ben Franklin Variety Store    |
| City Of St. Helena Sidewalk   |
| Ogletree's Machine Shop, Inc. |
| Pacific Bell                  |
| Safeway Store #0762           |
| ST. HELENA/BEN FRANKLIN       |

### Boundary Data

|                                                 |                                                                                                                          |
|-------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|
| <b>Basemap Grid:</b>                            | 9 - C                                                                                                                    |
| <b>Census Data:</b>                             | Tract: 201602 Block Group: 4                                                                                             |
| <b>Consumer Protection Staff:</b>               | 3 - Jahniah                                                                                                              |
| <b>County Zoning:</b>                           | St Helena - Refer to city. Zoning is only available for the unincorporated area.                                         |
| <b>Fire Jurisdiction:</b>                       | St Helena Fire                                                                                                           |
| <b>Garbage Zone 1:</b>                          | Parcel does not fall within Garbage Zone 1                                                                               |
| <b>Hazmat Staff:</b>                            | 3 - Jennea                                                                                                               |
| <b>Landuse Staff:</b>                           | 3 - Peter                                                                                                                |
| <b>Projected Township, Range &amp; Section:</b> | M08N05W30<br>M08N05W31<br>M08N06W25<br>M08N06W36<br>* Multiple results found. For more information, see report footnote. |

**Parcel Report for { 009150006000 }**Developed by Napa County GIS  
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|                              |                           |
|------------------------------|---------------------------|
| <b>School District:</b>      | St. Helena Unified        |
| <b>Supervisor District:</b>  | District 3 - Diane Dillon |
| <b>Township &amp; Range:</b> | T08N-R06W                 |
| <b>USGS Topo Quad Name:</b>  | Saint Helena              |
| <b>Voting Precinct:</b>      | 332601                    |

| <b>Imagery</b>                             |                     |
|--------------------------------------------|---------------------|
| <b>Description</b>                         | <b>Name</b>         |
| 2002 DTM & Imagery:                        | L - 5               |
| 2005 Imagery:                              | 6422_1944           |
| 2007 DTM & Imagery:                        | L08-20SE            |
| 2007 DTM & Imagery:                        | L08-20NE            |
| 2011 1 Foot Imagery:                       | 426946              |
| 2011 6 Inch Imagery:                       | 426946              |
| Digital Ortho Quarter Quad (DOQQ) Imagery: | saint_helena_sw.lan |
| Digital Terrain Model (DTM):               | l05_topo.zip        |
| USGS Topo Quad (DRG):                      | o38122e4.tif        |

**Property Data****Ownership Summary:**

| <b>Owner</b> | <b>Granting Doc Number</b> | <b>Ownership Percentage</b> | <b>Title Type</b> |
|--------------|----------------------------|-----------------------------|-------------------|
|--------------|----------------------------|-----------------------------|-------------------|

**Tax Roll Summary:**

| <b>Tax Year</b> | <b>Taxroll Owner</b> | <b>Roll Category</b> |
|-----------------|----------------------|----------------------|
| 2015            | ST HELENA CITY OF    | CS                   |

**Assessor Summary:**

|                                  |                                         |
|----------------------------------|-----------------------------------------|
| <b>Acres (0 means &lt; 1.0):</b> | 5.60                                    |
| <b>Assessor Land Use Code:</b>   | 80                                      |
| <b>Mailing Address:</b>          | 1480 MAIN ST<br>ST HELENA CA 94574-1854 |
| <b>Map Book &amp; Page:</b>      | 009 - 15                                |
| <b>Notes:</b>                    |                                         |
| <b>Parcel Description:</b>       | 1995022214=PTN TO CITY OF ST HELENA     |
| <b>Physical Address:</b>         |                                         |
| <b>Tax Rate Area Code (TRA):</b> | 003000                                  |
| <b>Total Assessed Value:</b>     | \$0.00                                  |

## Parcel Report for { 009150006000 }

Developed by Napa County GIS  
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### Filed Maps:

[009-15 - Assessor Map Page](#)

[10PM4 - Parcel Map](#)

[26PM24 - Parcel Map](#)

[26PM24 - Parcel Map](#)

[7PM57 - Parcel Map](#)

[24RM3 - Record Map](#)

[37RS89 - Record of Survey](#)

[38RS98 - Record of Survey](#)

[41RS23 - Record of Survey](#)

### Cultural Data

#### Schools (within 0.25 mi):

No Schools found

#### Medical Facilities (within 0.25 mi):

No Medical Facilities found

### Permit History - No Records Found

\* Note: Multiple results were found.

In some cases, multiple results could be valid; for example, Zoning.

In other cases, a parcel may cross over the boundary of more than one data area; for example, multiple Precincts.

To review any possible data issues, use the interactive map and turn on the relevant layers.

*Disclaimer: This report was prepared for informational purposes only. No liability is assumed for the accuracy of the data delineated hereon.*



Report to the City Council  
Regular City Council - 09 Jun 2020

**Agenda Section: NEW BUSINESS**

**Subject: Consideration of Initiative Measure Prohibiting Hotel/Motel Development on Public Land Located at the Corner of Library Lane and Adams Street**

**CEQA Determination: Not a CEQA project. Environmental review of a voter petition-initiated measure is not required. Tuolumne Jobs & Small Business Alliance v. Superior Court (City of Sonora), (2014) 59 Cal. 4th 1029**

**Prepared By:** Kara Ueda, City Attorney

**Reviewed By:** April Mitts, Finance Director

**Approved By:** Mark T. Prestwich, City Manager

**BACKGROUND**

On January 6, 2020, a proponent of the self-titled "Public Property Protection Act" submitted a notice of intent to circulate a petition to qualify it as a local initiative measure. The Elections Code requires the City Attorney to prepare a title and summary of the measure within 15 days from the date of submission. Upon receipt of the title and summary from the City Clerk, the initiative proponent must publish the notice of intent, title and summary and may then begin circulating the initiative measure petition for signatures by the City's registered voters. An initiative proponent has 180 days from the date of receipt of the title and summary to file a signed petition with the elections official (the City Clerk) in proper format and containing sufficient verified signatures to qualify the measure (10% of the City's registered voters).

The City Clerk transmitted the City Attorney's title and summary for the proposed measure to the initiative proponent on January 21, 2020. The impartial title of the proposed initiative measure provided by the City Attorney is an "Initiative Measure Prohibiting Hotel/Motel Development on Public Land Located at the Corner of Library Lane and Adams Street." After receiving the title and summary, the initiative proponent provided proof of publication to the City Clerk.

On May 6, 2020, the initiative proponent timely filed with the City Clerk's office a petition containing 523 signatures. After accepting the signed petition for filing, the City Clerk reviewed it for technical compliance with the Elections Code, as is her duty. Her review found three instances where the petition did not comply with all technical requirements of the Elections Code. Specifically, the blank box on the right side of the signatures appears to be between 3/4 and 7/8 of an inch wide, but Elections Code Section 100 requires it to be 1 inch in width. The petition lacked the disclosure of a "top funders" list, a new requirement under Elections Code sections 101 and 107 which applies to major donors (contributors of \$50,000 or more) that were not involved in this effort. Lastly, the word "public" is misspelled "pu~~u~~lic". However, the City Clerk, in consultation with the City Attorney, determined that these technical errors would not render the petition fatally defective. Rather, the petition would likely be deemed to be in "substantial compliance" with the Elections Code and therefore legally sufficient as to form.

The "substantial compliance" doctrine provides that technical defects in an initiative petition do not invalidate the petitions provided that the petitions are in "substantial compliance" with statutory or constitutional requirements. The court's main concern in evaluating an initiative petition with a purported defect is determining whether "the purpose of the technical requirement is frustrated by the defective form of the petition." *Nelson v. Carlson* (1993) 17 Cal.App.4th 732, 737.

After completing the technical review, the City Clerk on May 15, 2020 transmitted the signed petition to the Napa County Registrar of Voters to verify the number of valid signatures in the petition. The Registrar of Voters provided a verification certificate to the City Clerk on May 26, 2020. The Registrar of Voters reviewed all 523 signatures, determined that 189 were sufficient, 334 were insufficient, and 34 were duplicates. In order to qualify for the ballot, the petition must be signed by 10% of the City's registered voters, or not less than 344 registered voters. Therefore, the County Registrar of Voters recommended that the petition did not qualify for the ballot.

However, the City Clerk learned through further discussion that the Registrar of Voters had determined 229 signatures to be invalid because the person signing the petition did not include the name of the City. This is a technical violation of Elections Code section 9020, which requires the printed name, signature, street address *and city or unincorporated community* of the voter signing the petition. However, despite the lack of a "City" reference in these 229 signature blocks, the Registrar of Voters was nonetheless able to verify each of them against voter records and confirm that these 229 signers were, in fact, registered voters in the City of St. Helena. Therefore, upon the advice of the City Attorney, the City Clerk has determined that these 229 signatures were valid under the doctrine of "substantial compliance" because none of these technical errors in the petition frustrated the purpose of the Elections Code requirements to which they related. As a result, the City Clerk has determined that the petition contained 418 valid signatures of St. Helena voters (the 189 originally confirmed signatures combined with the 229 additional signatures). This means that the initiative petition has qualified for the ballot.

After making this determination, the City Clerk sent a letter to the initiative proponent on May 28, 2020, setting forth information concerning the Registrar of Voters' recommendation and the City Clerk's determination.

## **DISCUSSION**

### **A. The Proposed Initiative Measure**

The proposed initiative measure, if adopted by a majority of the voters voting on the measure in St. Helena, would protect in perpetuity from any hotel or motel development the 5.6 acres of land owned by the City at the corner of Library Lane and Adams Street, adjacent to the library and commonly referred to as the "Adams Street property."

The purpose of an initiative measure is to enact a law that could, if the City Council desires, be enacted outright rather than placed on the ballot. This proposed initiative measure would not amend the City's General Plan or the Zoning Code. Neither does it give the City Council the authority to implement it by enacting any necessary ordinances or policies. Thus, it is unclear how specifically the measure's intent would be effectuated. If adopted by the voters, the City Council would not be permitted to amend the language as any subsequent amendment to the measure would require a further vote of the people.

### **B. City Council's Options**

Elections Code section 9215 provides that the City Council has three options when a proposed initiative measure has qualified for the ballot, as follows:

1. Adopt the proposed initiative measure, as written, at this regular city council meeting, or no later than 10 days after this meeting.
2. Submit the proposed initiative measure, as written, to the voters at the next regular municipal election occurring at least 88 days after submission. The City's next regular municipal election (when Council members are up for election) occurring at least 88 days later is November 3, 2020.
3. Direct City staff to prepare an impartial and informational report analyzing the impact of the proposed initiative measure. Under Elections Code section 9212, the report may include any or all of the following:
  1. Its fiscal impact.
  2. It's effect on the internal consistency of the City's general and specific plans, including the housing element, the consistency between planning and zoning, and the limitations on City actions under Government Code section 65008 and Government Code sections 65913 and 65915 et seq.

3. Its effect on the use of land, the impact on the availability and location of housing, and the ability of the City to meet its regional housing needs.
4. Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses.
5. Its impact on the community's ability to attract and retain business and employment.
6. Its impact on the uses of vacant parcels of land.
7. Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.
8. Any other matters the City Council requests to be in the report.

If the City Council directs staff to prepare an impact report under 3. above, City staff must present the report not later than thirty (30) days after the City Council orders it. If the City Council chooses this option, Elections Code section 9215 provides that at the time the report is presented to the City Council, the City Council would then be presented with the first two options: either adopt the proposed initiative measure as written or place the proposed initiative measure on the ballot within 10 days.

#### **FISCAL IMPACT**

There would be no immediate fiscal impact related to adopting the initiative measure as written or by directing staff to return within 10 days with a resolution calling the election. If the City Council places the measure on the November ballot, the City would incur an additional cost of holding an additional election. However, this cost would presumably be less than if the item were to appear at a separate special election called solely for this measure. If the City Council directs City staff to prepare an impact report, the City would incur additional time on the part of City staff and the City Attorney to complete that report.

#### **RECOMMENDED ACTION**

Direct staff to prepare a report on the proposed initiative measure's impacts pursuant to Elections Code section 9215.

#### **ATTACHMENTS**

[Initiative Measure to be Submitted to Voters](#)

[County Registrar of Voters Clerk's Certificate to Initiative Petition](#)

[CITY CLERK CERTIFICATE OF SUFFICIENCY OF PETITION](#)

### **PUBLIC PROPERTY PROTECTION ACT**

The People of the City of Saint Helena do ordain as follows:

The 5.6 acres of public land at the corner of Library Lane and Adams Street (parcel #009-150-006, adjacent to the library and commonly referred to as the Adams Street property) shall be protected in perpetuity from hotel/motel development of any kind.

This is a simple YES vote if you want to protect the Adams Street property from hotel/motel development or a NO vote if you do not want to protect the property from hotel/motel development. This initiative will have no measurable fiscal impact on either the citizens or the City of Saint Helena.

**CLERKS CERTIFICATE TO INITIATIVE PETITION**

I John Tuteur, Registrar of Voters of the County of Napa, State of California, hereby certify:  
that the Initiative Measure Prohibiting Hotel/Motel Development On Public Land Located At  
The Corner Of Library Lane And Adams Street was filed with this office on May 15, 2020.

That each section contains signatures purporting to be the signatures of qualified electors of the City of Saint Helena.

That attached to each section of this petition at the time it was filed was an affidavit of the person who solicited the signatures, and also containing the dates between which the purported qualified electors signed this petition;

That the affiant stated his or her own qualifications, that he or she had solicited the signatures upon that section, that all of the signatures were made in his or her presence and that to the best of his or her knowledge and belief each signature to that section was the genuine signature of the person;

That upon the request of the City Clerk of the City of Saint Helena, with whom the proponent filed this petition, we tabulated the number of valid signatures by examining the records of registration in the City of Saint Helena, current and in effect at the respective dates of such signing, to determine what number of qualified electors signed the petition, and from that examination it has been determined;

|                                                      |            |
|------------------------------------------------------|------------|
| 1. Number of sections                                | <u>177</u> |
| 2. Number of unverified signatures filed (raw count) | <u>523</u> |
| 3. Number of signatures verified                     | <u>523</u> |
| a. Number of signatures found <b>sufficient</b>      | <u>189</u> |
| b. Number of signatures found <b>not sufficient</b>  | <u>334</u> |
| c. Number of duplicate signatures                    | <u>34</u>  |

Because 344 valid signatures were required for the petition to qualify, it is our recommendation that the petition does not qualify for placement before the voters.

**In witness whereof**, I have hereunto set my hand and affixed by official seal this 26 day of May, 2020.

(seal)

**SEAL AFFIXED**

  
\_\_\_\_\_  
John Tuteur  
County Clerk and ex-officio Registrar of Voters

### CERTIFICATE OF SUFFICIENCY OF PETITION

I, Cindy Tzaopoulos, City Clerk of the City of St. Helena, County of Napa, State of California, hereby certify that:

The petition entitled "Initiative Measure Prohibiting Hotel/Motel Development on Public Land Located at the Corner of Library Lane and Adams Street" was filed with the City Clerk Department on January 6, 2020.

That said petition consists of 177 sections;

That each section contains signatures purporting to be signatures of qualified electors of the City of St. Helena, California;

That attached to this petition at the time it was filed, was an affidavit purporting to be the affidavit of the person who solicited the signatures, and containing the dates between which the purported qualified electors signed this petition;

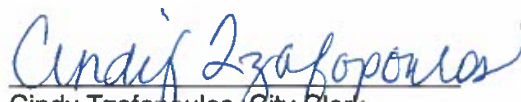
That the affiant stated his or her own qualification, that he or she had solicited the signatures upon that Section, that all of the signatures were made in his or her presence, and that to the best of his or her own information and belief, each signature to that section was the genuine signature of the person whose name it purports to be;

That after the proponents filed this petition and based on the County of Napa Registrar of Voters' Signature Verification Certificate I have determined the following facts regarding this petition:

|                                                              |     |
|--------------------------------------------------------------|-----|
| 1. Total number of signatures filed by proponent raw count:  | 523 |
| 2. Total number of signatures verified:                      | 523 |
| 3. Number of signatures found sufficient:                    | 418 |
| 4. Number of signatures found insufficient:                  | 105 |
| 5. Number of signatures insufficient because of Duplication: | 34  |
| 6. Total number of signatures required:                      | 344 |

Based on the above, the petition is deemed to be sufficient.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of St. Helena this 2nd day of June, 2020.

  
Cindy Tzaopoulos, City Clerk  
City of St. Helena





Special St. Helena Council Meeting, July 8, 2020  
Public Comment on Adams Street Ballot Initiative

To the Mayor and Council Members:

The City Attorney has advised, with exceptional legal clarity, that the proposed Initiative “does not propose a legislative act, is an impressive use of the initiative power, and would likely be determined to be impermissibly vague.”

The Initiative, for many reasons, is unsound public policy for our City. However, the City Attorney’s decisive legal opinion obviates the need for public comment policy discussion at this time.

I urge all Council members to adopt Option 3 (“Decline to place the measure on the ballot after finding that the initiative measure does not propose a legislative act as required by California law”).

Respectfully submitted,

Alan Galbraith  
Mayor, 2014-18



**Cindy Tzaopoulos**

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**From:** Lorraine Ruston <rustfamvin@aol.com>  
**Sent:** Tuesday, July 7, 2020 8:21 AM  
**To:** Public Comment  
**Subject:** [External] Adams Street property on the Nov. ballot

I thought that the public could place measures on the ballot if the proper petitions were filed.  
What happened? Why can't we vote on this important issue?  
Thank you.  
Lorraine Ruston



**Cindy Tzaopoulos**

---

**From:** shari harmon <shari.c.harmon@gmail.com>  
**Sent:** Tuesday, July 7, 2020 10:55 AM  
**To:** Public Comment  
**Subject:** [External] Adams Street property

Dear City Council and Mayor,

Honestly I am not very good at this so all I can think to do is speak from the heart.

It has come to my attention that you may vote to proceed on the Adams Street project with out a vote from the community. I cannot tell you how much this saddens and disappoints me. As elected officials you are supposed to be working for the people not for yourselves. The people received enough signatures to put this proposal on the ballot. It seems to me the right thing to do is let the process work. For you to push this through without the approval of the people is not just wrong it is not the way our country is supposed to work.

If you allow it to go on the ballot then no one can be upset. It is crazy that during these times you would even be thinking of another hotel/resort much less pushing through your own agenda.

I hope you will consider the community and allowing them to vote. I understand that development is going to happen but perhaps you could go with the plans already on the table than proceeding with a project that is not necessary.

Thank you for your time.

Shari C Harmon  
1103 Pope Street  
707-280-5480



July 7, 2020

To: Saint Helena City Council,

From George David

Subject:

**Initiative Measure Prohibiting Hotel/Motel Development on Public Land Located at the Corner of Library Lane and Adams Street**

Mr. Mayor, members of the City Council,

We have read the legal opinion prepared by the City Attorney related to the above topic and encourage you to accept her conclusion to decline to place the measure on the ballot after finding that the initiative measure does not propose to adopt a legislative act as required by California law. To knowingly place a measure on the ballot that has no legal standing is a waste of City funds and manpower, and an affront to the citizens of Saint Helena.

Please do your job and accept your attorneys conclusion and allow the development of the Adams Street site to follow its normal course of business.

Sincerely,

Handwritten signatures of Kimberly and George David in black ink.

Kimberly and George David

451 Pope Street

Saint Helena CA 94574



**Cindy Tzaopoulos**

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**From:** Linda Rose <linda@mgrose.com>  
**Sent:** Tuesday, July 7, 2020 10:27 AM  
**To:** Public Comment  
**Subject:** [External] Adams Street

It's very important to put the Adams Street initiative on the ballot. The world has changed. We need to stop thinking about a tourist based economy. We have a unique opportunity to strengthen our community. This is the kind of place people want to move to and live, and raise their families, but only if we strengthen rather than weaken the community we have.

Thank you,  
Linda Rose



**Cindy Tzaopoulos**

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**From:** Richard Seiferheld <seiferheld@me.com>  
**Sent:** Tuesday, July 7, 2020 12:16 PM  
**To:** Public Comment  
**Subject:** [External] Adams Street Hotel ballot initiative

I never doubted for a moment that the City Council's decision to call for a staff report at its June 9 2020 meeting regarding the ballot initiative concerning hotel/motel development on the City's Adams street property would come to the conclusion to recommend against the initiative. The way the staff report is written seems to provide just the cover that certain members of the Council seek to serve the special interests of a small group of hotel developers who have persistently sought to profit from the acquisition of that Property. I will find disheartening and verging on corrupt if the Council fails to support this initiative and allow their constituents to express their will on this matter. Failure to do so will only fuel the divisiveness so prevalent in our culture and allow it to seep into our community. While the arguments put forth in the Staff report no doubt have technical merit, I hope the majority of the Council can reach a consensus on a solution that will both hear what St. Helena voters want on the question of Hotel development and implement that public will by overcoming any technical/legal flaws perceived in the initiative as written, if a majority supports the initiative.

*Richard Seiferheld*  
[seiferheld@me.com](mailto:seiferheld@me.com)  
707 695 0915



**Cindy Tzaopoulos**

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**From:** Mariam Hansen <wartuhi@comcast.net>  
**Sent:** Tuesday, July 7, 2020 11:32 AM  
**To:** Cindy Tzaopoulos  
**Cc:** Public Comment  
**Subject:** [External] Adams Initiative Public Comment

Hello Cindy,  
I again submit this public comment for the July 8 meeting.  
Thank you,

*Mariam Hansen*

Honored Council Members,  
This is in regard to the proposed ballot action to allow citizens to vote on whether to build a hotel on the city's Adams Street parcel. This town has been discussing, debating, studying, consulting etc. etc. about this city owned piece of land for 20 years!! I went to the workshops where we put colored dots on images of designs. I went to toomany meetings. Enough already!!! Put it to a vote and be done with it!!

*Mariam Hansen*

5 San Lucas Court  
St. Helena, CA  
963-5748



## Cindy Tzaopoulos

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**From:** Christine Hale <christinehale04@yahoo.com>  
**Sent:** Tuesday, July 7, 2020 2:37 PM  
**To:** Public Comment  
**Subject:** [External] Public Comment

City Council,

The initiative to restrict the use of the Adams Street parcel is fraught with problems. The city attorney, who we pay to analyze these issues, has recommended against it for several reasons, one of which is a lack of clarity. In my experience, many voters are often ill informed as to the consequences of the measure they are voting for or against. As the city attorney pointed out, the initiative is potentially void for vagueness. That is often the case with initiatives and often that is by design. We elect City Council to make decisions that are in the best interest of the city as a whole, just as we enlist the city attorney to give advice on matters that need legal attention. We expect them to be informed on the issues that will be affected by changes such as the use of Adams Street. The fiscal impact will impact not only current residents, but future generations as well. Why would we want to harm the economic stability of our community? There are many opinions on the best use in the community and the loudest voices are often the only ones that are heard.

I hope that you will support the city attorney and the recommendation that this not be included on the ballot as this will clearly not resolve the problem, and will only create a new one.

Thank you,

Christine Hale

1616 Madrona Ave.



## Cindy Tzaopoulos

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**From:** Philippa Ward <philippa.ward@engelvoelkers.com>  
**Sent:** Tuesday, July 7, 2020 1:55 PM  
**To:** Public Comment  
**Subject:** [External] Public comment

After reading the report from the city attorney she is advising for the measure to not be on the ballot. She is working in the city's best interest and that is what we are paying her for so why wouldn't we follow her advice?

It DOES matter if it is written correctly and that is why there is protocol for just that. If it is written incorrectly it means something different than maybe what was intended and there are legal ramifications attached to that.

I am not opposed to more discussion and having voices heard but this doesn't seem in the best interest of the town or citizens.

And after sitting on the financial task force and reviewing the city finances in depth I cannot for the life of me understand why anyone would want to legally tie the hand of the city from evaluating any development that might be in its favor. We don't have enough money plain and simple and all options should be evaluated. I am not saying it has to be a hotel and it has to be there but to encumber a property before we have all of the information seems really crazy.

Take your lawyers advice

Philippa Ward  
 Global Real Estate Advisor

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Mail to: [Philippa.ward@evrealestate.com](mailto:Philippa.ward@evrealestate.com)

<http://app.evrealestate.com/EVPHILIPPAWARD>

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## Cindy Tzaopoulos

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**From:** tallen@northbaymgt.com  
**Sent:** Tuesday, July 7, 2020 4:32 PM  
**To:** Geoff Ellsworth; Paul Dohring; Mary Koberstein; Anna Chouteau; David Knudsen  
**Cc:** Cindy Tzaopoulos; Mark Prestwich  
**Subject:** [External] Public Comment on Adams Street Ballot Initiative -- Special St. Helena Council Meeting, July 9, 2020

Public Comment on Adams Street Ballot Initiative  
St. Helena Council Meeting, July 9, 2020

To the Mayor and City Council:

I strongly urge the City Council to accept the advice of our City Attorney, Kara Ueda, and decline to place the proposed ballot initiative on the ballot.

Our City Attorney clearly advises that you should reject the measure for being too vague and not meeting the legal standard required of a ballot initiative under California law.

There are many non-legal reasons to NOT place this flawed initiative on the ballot in its current form. It ties the City's hands, reduces its flexibility for future actions, and eliminates the potential for a robust discussion of the various options available to generate vitality and revenue for our town. There will be time to debate these issues once this flawed initiative is removed from consideration in its current form.

However, in this case, the legal reasons alone must prevail. Refusing to accept this recommendation by our City Attorney would expose the City to unforeseeable legal consequences and would represent malfeasance in office.

Thank you.

  
**Thomas W. Allen**  
1703 Madrona Avenue  
St. Helena, CA 94574  
Mobile 415-990-0240  
[tallen@northbaymgt.com](mailto:tallen@northbaymgt.com)



## Cindy Tzaopoulos

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**From:** Elaine Honig <elaine@studio4forty.com>  
**Sent:** Tuesday, July 7, 2020 4:25 PM  
**To:** David Knudsen; Geoff Ellsworth; Koberstein Mary; Anna Chouteau; Paul Dohring  
**Cc:** Mark Prestwich; Cindy Tzaopoulos  
**Subject:** [External] Special City Council meeting public comment

To the City Council Members and Mayor,

I have read the city attorney's recommendation on the ballot initiative and support her conclusion below.  
I encourage our representatives to vote no on putting this poorly written initiative on the ballot.

In light of the above, it is the opinion of the City Attorney that the Initiative does not propose a legislative act, is an impermissible use of the initiative power, and would likely be determined to be impermissibly vague.

Thank you,

elaine  
Elaine Honig  
Founder & CEO  
STUDIO 4Forty  
707-479-2055  
[elaine@studio4forty.com](mailto:elaine@studio4forty.com)  
[www.studio4forty.com](http://www.studio4forty.com)





## Cindy Tzaopoulos

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**From:** Oliver Caldwell <oliver@caldwellsnyder.com>  
**Sent:** Tuesday, July 7, 2020 4:05 PM  
**To:** Geoff Ellsworth; Paul Dohring; Mary Koberstein; Anna Chouteau; David Knudsen  
**Cc:** Cindy Tzaopoulos; Mark Prestwich  
**Subject:** [External] Special St. Helena Council Meeting, July 9, 2020 Public Comment on Adams Street Ballot Initiative

Special St. Helena Council Meeting, July 9, 2020  
Public Comment on Adams Street Ballot Initiative

To the Mayor and Council Members:

I recommend all Council members to follow the advise of our City Attorney and decline to place the measure on the ballot.

City Attorney Kara Ueda's advise for the Council, to reject the measure for being too vague and not meeting the legal standard required of a ballot initiative under California law, should take precedent over any political rationalization or consideration.

Our City Attorney is an unbiased professional in civic legal affairs and comes from a firm with vast legal expertise. It would set a most unproductive relationship for the Council to summarily dismiss Ms. Ueda's advise for immediate political appeasement or favor.

Rebuffing our City Attorney could also expose the City to unknown legal consequences. This would be reckless governance and a breach of the Council's fiduciary relationship with the governed. There is always another day for the current initiative advocates to seek qualified legal council and submit a properly drafted initiative.

Thank you for your consideration.

Oliver and Karen Caldwell



Dear City Council Members,

You have the opportunity Wednesday, July 8<sup>th</sup> to allow the residents of our small town the chance to have a voice on whether they want a hotel developed on Adams Street. This has been a divisive subject that has been debated in our community for the past ten years. In my opinion, to deny residents their voice would be a breach of city council's responsibility.

As documented in the city attorney's impartial report, there was no time or effort made to include any environmental impacts a hotel on Adams Street would have on our community. Apparently, water, traffic, climate, open space, and residential input have no importance in city staff's interpretation of impartial.

Granted, our city needs additional revenue to make the improvements we all want and deserve. But the city has other options available to it other than selling such an irreplaceable piece of land.

Respectfully,

Tom Belt



June 7, 2020

To: Mayor Ellsworth, Vice-Mayor Dohring, Council members Koberstein, Knudsen and Chouteau

I have read the staff report regarding the issue are discussing at your special meeting June 9<sup>th</sup>. I have also read some excellent letter written by people with whom I agree. I believe that our City Attorney has done due diligence on this matter and you should follow her recommendation. It would be expensive and time consuming, not to mention frustrating if this were to go on the ballot and then be challenged. It sounds like there is a good likelihood that would happen. The real issue here of course, is building a hotel on Adams Street. This should be decided after the City seeks via the RFP process some proposals to see what can be done on that property and whether it would meet the City financial needs while at the same time providing some services to the citizens of St. Helena. That is the time to debate the issue.

Pat Dell – St. Helena



Mayor Geoff Ellsworth, Vice Mayor Paul Dohring,  
Councilmembers Chouteau, Knudsen, Koberstein

After reading the City Attorneys very comprehensive and complete staff report it is very apparent to me that that this so called initiative should not be put on the ballot in its current form.

I certainly am not opposed to having an open discussion with the residents of the City of St Helena on what should be and what should not be built on the Adams Street property. But it makes no sense to me to put an initiative on the ballot that prohibits building a “hotel/motel” in perpetuity How can you justify tying the hands not only of the current City Council but of any other governing body in the future to determine what to do with the property. It is just not the right thing to do.

One of the Financial Task Forces conclusions was that the City would need to have two hotels on line in order to insure the financial stability of the City in future.

Therefore, I am asking that you take the City Attorneys advice and vote to not put this initiative on the ballot.

Grace D Kistner  
Saint Helena



**Cindy Tzaopoulos**

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**From:** Andrew Navone <andynavone@gmail.com>  
**Sent:** Tuesday, July 7, 2020 5:21 PM  
**To:** Public Comment  
**Subject:** [External] Adams Street Parcel

To Mayor Geoff Ellsworth & Members of the City Council

I have been notified that the city attorney is recommending to exclude placing the Adams Street measure on the ballot for the upcoming election. I understand that more than enough signatures were gathered to do such. It seems like one way or the other the outcome of the vote should finally give the council direction on what might be best for the property.

I strongly oppose any hotel development on the site. I think it is ridiculous to think that another high end hotel and the promised TOT revenues will solve the city's financial crisis (if one truly exists). Not to mention how it would change the retail climate, which I seriously doubt. I would however respect the decision by a vote of the citizens of St. Helena. It just may provide a final direction to the mayor and council on how to best deal with the property.

The city attorney may have specific reasons for not recommending the measure be placed on the ballot. I fail to see what harm it would cause. My wife and I urge you to place the measure on the upcoming ballot.

Respectfully submitted, Andy & Celeste Navone

Andrew J Navone  
**Navone Family Wines**  
789 Fulton Lane  
St. Helena, CA 94574  
Cell# 925 963-6293



## Cindy Tzaopoulos

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**From:** Mark Prestwich  
**Sent:** Tuesday, July 7, 2020 6:43 PM  
**To:** Cindy Tzaopoulos  
**Subject:** FW: Just posted on Nextdoor

Public comment

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**From:** Nancy Dervin <nancydervin@hotmail.com>  
**Sent:** Tuesday, July 7, 2020 10:21 AM  
**To:** CityCouncil <CityCouncil@cityofsthelena.org>; Mark Prestwich <MPrestwich@cityofsthelena.org>; Kara Ueda <kara.ueda@bbklaw.com>  
**Subject:** [External] Just posted on Nextdoor

Regarding the ballot initiative to PROTECT the 5.6 acres of PUBLIC PROPERTY on Adams Street from hotel development. During the June 9<sup>th</sup> city council meeting council member Paul Dohring stated, "I definitely think it should go to the voters...it should go on a ballot in 30 days." David Knudsen stated, "Whether it is written exactly right or not, it doesn't bother me.....I want them to vote." Mayor Ellsworth noted that with council persons Koberstein, Chateau, and Dohring making a majority in favor of further study, that further study should include impacts on water, traffic, safety, and housing, which was agreed upon by the council and the city attorney said there was a legal ability to do. Guess what. If you read the report, you will see that didn't happen.

MAGICALLY the city came up with a different option three that had not been presented at the meeting, and which option the city attorney is recommending. That option is: Decline to place the measure on the ballot after finding that the initiative measure does not propose to adopt a legislative act as required by California law.

Over 500 people signed a petition to have the right to vote on this most important question: Should the 5.6 acres Adams Street Public Property be protected from Hotel development? Any deficiencies that may or may not exist while potentially giving an opportunity, DOES NOT REQUIRE the city to block the initiative. City Council, you have an opportunity to show good faith at the July 8<sup>th</sup> Council Meeting and put the initiative forward for a vote in November.

Sent from [Outlook](#)



With all due respect to the Council and the City Attorney, they need to listen to the residents. Adams Street is public property and the residents have a say in what happens. They are informed and they have rights in this matter.

500 + of these St. Helena residents signed the initiative to protect the Adams St. land from ever being developed into a hotel or motel. Their voices are the voices of voters. Even though there are three Council members that think they know what is best (and the residents do not?), that is not so. The residents need to be heard.

These same three Council members have brushed aside requests for analysis of traffic, water, housing and safety issues that should be a primary concern if a hotel or motel were to be built on Adams St. What are they thinking? Each of these same people agreed to fight climate change and greenhouse gas emissions at our local level by signing the June 2019 Proclamation to join Napa County in this goal. Were they just paying lip service to this significant commitment?

There seems to be a rush to sell this land with the belief that the City is in need of a cash influx. Is that really the case? Ask the City Manager if we are in such dire straits. If so, what about selling off other City owned properties? What about a more modest approach to rebuilding City Hall in its current location?

And – most of all – in a time when divisiveness seems to be the order of the day – what about coming together and listening to each other and having a consensus? This most recent move by the three Council members flies in the face of creating unity.

Respectfully,

Sharon Dellamonica  
St. Helena, CA



June 8<sup>th</sup>, 2020

Mr. Mayor and Members of the City Council,

As noted in the City Attorney's report, "it is the opinion of the City Attorney that the initiative measure does not propose a legislative act, does not provide any direction as to how to implement its purpose, and is potentially void for vagueness."

Who should the city council listen to to avoid litigious actions against the city and ensure that those who wrote the initiative get what they are proposing? The City Attorney.

Allowing this on the ballot after the advice of the City Attorney is a mistake. Why do we pay for their advice if we are not willing to act on what they propose?

In what other circumstance would the city allow an item to be put on the ballot that they have been warned is faulty and will create extra work and possibly litigation down the line and then agree to FIX it later? I can't think of even one. Our City Council is in place to protect us from such measures.

As the initiative is propose we at the very least could put in a shopping mall, time share housing, any number of items that they have not accounted for. As written, this is not an open space initiative.

I understand the passion for this site. However, let them take the time to rewrite the initiative so that it addresses all the issues suggested. They did receive a letter at the beginning of the campaign from the City Attorney alerting them to the issues in the initiative, which they chose to ignore. The City Attorney spelled out the directions that needed to be covered. To move forward now rather than waiting for a better written initiative creates confusion on the direction that the city would be expected to legally go forward and is a waste of funds and staff time. We need every dollar we have to support our staff and maintain the city in the middle of a pandemic. With a properly written initiative the voters would actually be able to understand what they are voting for and any future use of the site while the city would be protected and clearly understand intendent use.

Even better, why not wait and address each proposal for the site as it comes in?

Best regards,  
Susan Kenward

A handwritten signature in black ink, appearing to read 'Susan Kenward', written in a cursive style.



## Cindy Tzafopoulos

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**From:** Doug Barr <trplbarr@comcast.net>  
**Sent:** Wednesday, July 8, 2020 11:10 AM  
**To:** Public Comment  
**Subject:** [External] public comment  
**Attachments:** city council letter hotel initiative7-8-20.docx; ATT00001.htm

Hi: Please accept this public comment for this evening's city council meeting. I am sending both as an attachment and cut and pasted to this email. Thanks, Doug

To: The City Council of Saint Helena for Public Comment, July 8, 2020

Re: Initiative Measure Prohibiting Hotel/Motel Development on Public Land at Library and Adams Streets

From: Douglas Barr, 2480 Spring Mountain Rd. SH, CA 94574

Dear Council Members:

Whether for or against the building of a hotel on the Adams Street property, the idea that the five members of the City Council should do an end run around the voices of several hundred of their constituents, by failing to allow them to be heard in the public forum of a legally presented ballot initiative, is reprehensible. In essence, such an action proclaims that, "We, as your elected council, know better than you, the citizens we represent, what's best for our town".

If the initiative fails to win at the ballot box, it is a public endorsement for a hotel. If it succeeds it is it an endorsement for community oriented uses as generally described in the 2009-2010 Visioning Statement and the final draft report of the SHAPE Committee section 4.5 Adams Street Property - preferred uses – best option: "Cultural Campus".

Whichever the voters chose, this initiative can potentially put to rest an historically divisive issue and finally let the city plan and move ahead accordingly.

I cannot imagine why anyone on the city council would accept the City Attorney's recommendation to suppress a vote of the council's constituents based upon a thin and tortured argument that, with due respect, could have been written by the Hotel Developers Guild of Northern California. Clearly Ms. Ueda was not here to witness the public outrage at the Fire House Townhall meeting when a previous city manager and council prematurely requested proposals from developers without public support.

Not allowing this initiative to be placed on the ballot implies that those members of the council biased in one direction or the other, fear the voice of the citizens and will do what it takes to not hear it. That stance is untenable. And to ignore the several hundred signatures of the people who elected them, is unacceptable.



**Cindy Tzaopoulos**

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**From:** Mark Smithers <msmithers@tfewines.com>  
**Sent:** Wednesday, July 8, 2020 10:14 AM  
**To:** Geoff Ellsworth; Paul Dohring; David Knudsen; ann@cityofsthelena.org; Mary Koberstein  
**Cc:** Cindy Tzaopoulos; Mark Prestwich  
**Subject:** [External] Special Council meeting July 8, 2020 item 5.1, Adams Street Hotel / Motel development initiative

To our Mayor and City Council,

I write to encourage you to allow the Adams Street Initiative to be placed on the ballot this November. I realize this goes against the recommendation of our city attorney. However, had the staff report, which was requested June 9, 2020 been received and shared with the public much earlier (not two days before the required meeting), the public could have had more time to review the basis of the city attorney's conclusion. This area of the law is fraught with differing opinions and given enough warning that this was going to be the recommendation, other legal advisors could have come up with a host of reasons why each of the negative points made could be refuted. At best this area of the law is gray.

That said, this general issue, to develop a hotel, motel, resort, etc. on the Adams Street property has been discussed for decades. The overwhelming majority of folks through workshops, city council meetings, committees, general outreach, etc. has been against this development idea but still, through a few single minded council members and folks, there is an attempt to go against the will of the people. As such, it seems right and proper for the issue once and for all to go before the people. Even if you are of the opinion to agree with the City attorney's legal review, why not gain a clear and conclusive view of our citizens. What better way to gain that clarity. Let everyone vote. Then you will know with absolute surety what your town thinks which will allow you to move forward with great confidence that you are doing the business of the people and for the people.

And isn't that what you are elected for?

Best to you all.

Mark Smithers

**Mark Smithers | Senior Vice President, Finance**  
**Trinchero Family Estates**  
 Office: 1-707-302-3027 | Ext. 2612 | Mobile: 1-707-290-4508  
 msmithers@tfewines.com

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## Cindy Tzafoopoulos

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**From:** Mark Prestwich  
**Sent:** Wednesday, July 8, 2020 8:48 AM  
**To:** Cindy Tzafoopoulos  
**Subject:** Fwd: [External] Vote then take it up.....

Public comment

Begin forwarded message:

**From:** Nancy Dervin <nancydervin@hotmail.com>  
**Date:** July 7, 2020 at 7:35:26 PM PDT  
**To:** CityCouncil <CityCouncil@cityofsthelena.org>, Mark Prestwich <MPrestwich@cityofsthelena.org>, Kara Ueda <Kara.Ueda@bbklaw.com>  
**Subject:** [External] Vote then take it up.....

"The general rule favoring postelection review contemplates that no serious consequences will result if consideration of the validity of a measure is delayed until after an election. Under those circumstances, the normal arguments in favor of the "passive virtues" suggest that a court not adjudicate an issue until it is clearly required to do so. If the measure passes, there will be ample time to rule on its validity. If it fails, judicial action will not be required." LEAGUE OF CALIFORNIA CITIES

Sent from [Outlook](#)



Item 4 Public Comment NOT for item 5.1

PLEASE READ THIS INTO ITEM 4 PUBLIC COMMENT TONIGHT. THANK YOU.

Dear City Council and City Staff,

On July 24<sup>th</sup>, 2018, after paying over \$175,000.00 in consulting fees, Kosmont Companies presented a report wherein the question is asked: "Does the city want to pursue the status quo approach in which St. Helena is becoming characterized as a "second home" community – or - pursue an approach that allows a residential, live/work/play environment for all generations?"

I urge City Council to make decisions that support the residential, live/work/play environment for all generations. That's why I support the Financing Civic Infrastructure Task Force report that offers a plan that will provide the finances our town needs for the future without selling the Adams Street property.

The Task Force determined completion of ANY TWO of the five potential hotel projects identified would pay for a new City Hall and Police Station plus make a substantial annual contribution to the City's General Fund. The two options that best support the live/work/play vision for Saint Helena are the Farmstead and the Wine Train/Krug Winery developments. Together they provide sufficient revenues for the City, and they will do so with the least amount of negative impact of all the hotel site options.

Farmstead is already developed and only adding lodging to their existing enterprise which limits the need for additional staff, and their plans are environmentally friendly while promoting downtown Saint Helena for their guests. The Wine Train/Krug development will provide their own water and connect to downtown via foot/bicycle on the Vine Trail, as well as offer guests free shuttle service to downtown. With these two projects being on the north end and south end of town we eliminate drawing more traffic deeper into Saint Helena, which is one of the many negative impacts a luxury hotel complex on Adams Street would have.

Contrary to Task Force projections of 4 or 5 years before any hotel could be built Farmstead is on track to open in 2022 and expects to contribute \$2 million dollars or more in TOT annually.

Beyond hotel development the task force estimates the City has 12.6 million dollars of sellable assets, not including Adams Street, should there be some urgent need for money.

In the VISION STATEMENT found on the Saint Helena City website we read there is a determination to "provide a full range of.... cultural and recreational opportunities and embrace and retain its historic, small-town character, beautiful natural environment and high quality of life."

Of five identified sites for hotels, only one of them requires the selling of property that currently embodies cultural and recreational opportunities, embraces our historic and small-town character, beautiful environment, and high quality of life. There is absolutely no need to sacrifice the 5.6 acres of public property on Adams Street when viable and excellent alternatives that are actually better suited for hotel development exist.

Item 4 Public Comment NOT for item 5.1

I ask the City of Saint Helena to do all it can to honor the Civic Task force recommendation of two hotels, neither of which need be on Adams Street, and help our local Farmstead and Wine Train/Krug Winery interests bring their outstanding community-based developments to fruition.

Thank you,

Nancy Dervin

Public Comment  
Special Meeting of the City Council  
July 8, 2020  
Agenda Item 5.1

Members of the Saint Helena City Council:

City Attorney Ueda's Section 9212 analysis makes it clear that the so-called "Public Property Protection Act" initiative is defective in form, content and substance. I urge you to act on staff's recommendation and decline to place the measure on the November ballot. It is the only responsible choice.

Even if you believe no hotel should ever be built on the Adams property, this botched attempt will not achieve that result. Contrary to mandates of the state constitution and case law, the measure does not enact a law or ordinance, misconstrues the powers of initiative, and is fatally vague.

Were this flawed proposal to be placed on the ballot and passed, the result would be a world of hurt for the city and a clear embarrassment for its proponents, who months ago refused advice to reframe the measure when there was time to do so.

Please reject the "Act" (which it is not). Anything else would be reckless.

Sincerely,

Jack Stuart  
22 Crane Avenue



Regarding the Initiative to Protect Adams Street from Hotel Development

July 8, 2020

Dear City Council,

You have the opportunity to do the right and good thing for your constituents tonight.

I agree the initiative is flawed however, according to the League of California Cities, and I quote: “The general rule favoring post-election review contemplates that no serious consequences will result if consideration of the validity of a measure is delayed until after an election. If the measure passes, there will be ample time to rule on its validity. If it fails, judicial action will not be required.” End of quote.

This initiative has qualified for the November ballot. If it passes you can still reject the initiative and take steps to address issues after the fact. We would have no problem with that, particularly because the will of the people will have been established by the outcome of the vote, which is the real issue at hand here. So other than fear of a result that does not align with those who have been pushing for a hotel on Adams Street, there is no conceivable reason to block this vote.

Were Adams Street the only place a luxury hotel could be built, I too would see this matter differently. But the truth is there are 4 other hotel options, one of which is hoping to open as soon as 2022 and generate 2 million dollars a year in TOT. Moreover, the city has 12.6 million dollars of sellable assets, not including Adams Street, should there be some urgent need for money. And none of those assets take something as precious as Adams Street, that this town values and utilizes every day, away from the people.

At the last council meeting, Paul Dohring stated, quote, “I definitely think it should go to the voters...it should go on a ballot in 30 days.” David Knudsen stated, “Whether it is written exactly right or not, it doesn’t bother me...I want them to vote.” Anna Chouteau and Mary Koberstein only indicated they wanted more information before making a decision. A comprehensive “impartial analysis” was agreed to to generate more information, but the City failed to follow through so there is none.

If cost is an issue, let me remind you that Kosmont was paid over \$175,000 dollars in consulting fees between 2017 and 2019 and an additional \$282,000 dollars was paid to Noll and Tam between 2019 and now. Also, you recently made \$300,000 dollars available to local business owners who may need financial help to get

Regarding the Initiative to Protect Adams Street from Hotel Development

through our current circumstances. So, the cost of putting the initiative on the ballot is a tiny amount in comparison.

There is no harm in putting the initiative up for a vote. If it passes you can reject it after the fact. To deprive over 500 residents the vote on this matter because of the objections of 10 or 12 people would be a gross violation of public trust and abuse of power. The will of the people needs to be determined on this matter and that will be done through a public vote where every voice has exactly the same volume.

I thank you in advance for doing the right thing.

Sincerely,

Nancy Dervin

July 8, 2020

Dear City Council,

Regarding City Attorney Ueda's recommendation to decline to place the measure on the ballot, you can check with her to verify there is no law compelling that action and that, in fact, if it goes to vote and passes the initiative can still be rejected for deficiencies after the fact, which proponents of the initiative would have no problem with.

Over 500 residents signed the petition to put this initiative on the ballot. There is no mandatory legal reason to prevent this from happening. There is moral and ethical reason to put it through.

Do the right thing, please.

Thank You,

Nancy Dervin



**Cindy Tzaopoulos**

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**From:** Anne Carr <acarriver@gmail.com>  
**Sent:** Wednesday, July 8, 2020 12:38 PM  
**To:** Public Comment  
**Subject:** [External] public protection initiative vote

Dear Mayor and Council Members,

Upon reading the City Attorney's report about Nancy Dervin's initiative, I understand the legal issues the City would face by placing it on the November ballot. The initiative, if passed, would not be legally binding but would certainly place onerous restrictions on the City Council's ability to be creative about potential enhancements to our town. One such enhancement, for example, might be to preserve part of the Adams Street property and sell part for revenue that would help to turn Money Way into a walking street- a lovely way to create an interesting and inviting attraction for locals and tourists alike.

The following paragraph of the report implies a solution to this dilemma.

"Moreover, the Initiative reads more like an advisory measure than an initiative enacting a legislative act. An advisory measure is a question on the ballot for the sole purpose of allowing voters to express their opinion on an issue or to inform the City Council about the electorate's approval or disapproval of a ballot measure. An advisory measure does not bind the City Council to a particular course of action but does provide Council with the voters' perspective. Advisory measures do not enact legislative acts as they do not propose a statutory enactment."

I urge the City Council to vote against placing the initiative on the November ballot and as an alternative immediately replace it with an "advisory measure" that addresses the concerns raised by the initiative. The purpose of such a measure would be to take the pulse of the entire voting community about the disposition of the Adams Street property and would in doing so honor the opinions of those who signed the initiative petition.



## Cindy Tzaopoulos

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**From:** Christina Benz <christinabbenz@gmail.com>  
**Sent:** Wednesday, July 8, 2020 1:33 PM  
**To:** Public Comment  
**Cc:** Geoff Ellsworth; Anna Chouteau; Paul Dohring; David Knudsen; Mary Koberstein  
**Subject:** [External] Comment for Special City Council Meeting, June 8, Item 5.1, Initiative Measure from Napa Sierra Club

The Napa Sierra Club has been asked by several St. Helena residents to comment on the development of the Adams Street property and the proposed initiative prohibiting hotel and motel development on that parcel.

We have reviewed the Staff Report and recognize the limitations of the proposed initiative. We hope, however, that the City Council will find some way to recognize residents' concerns about lodging development on this property.

Specifically we would ask that the City Council recognize that

- 1) In our current situation of the COVID pandemic and climate change caused disasters (e.g. wild fires, public service power shutoffs), revenue from lodging properties has become far from reliable.
- 2) Lodging properties result in increased water demand and increased traffic, both current issues for which the City has not found solutions.
- 3) The St. Helena General Plan Update 2040 includes a Climate Change element with policies and actions that all new projects should comply with so they won't worsen our climate crisis.

We appreciate the efforts the City Council has made to get resident input on development decisions for this parcel. We hope you will continue to listen.

Sierra Club Napa Group Executive Committee  
Chris Benz  
Chris Sauer  
Nicholas Cheranich  
Patricia Damery



## Cindy Tzaopoulos

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**From:** ann@nieman.org  
**Sent:** Wednesday, July 8, 2020 4:21 PM  
**To:** Cindy Tzaopoulos  
**Cc:** CityCouncil  
**Subject:** [External] Adams St Public Lot Initiative - Public Comment for tonight's Council Meeting

City Council,

The most important aspect of this initiative is not legal opinions or specific technicalities. Nor is it the financial claim that TOT and foot traffic are dependent on this location because multiple hotels in St Helena are being proposed in the city, with quicker turnaround.

The real aspect of this initiative is the abundantly clear message from the people of St Helena that they want a vote on what happens to their public property.

The city council has repeatedly said they want public input, and I commend them for that. Fortunately for the city council, over 500 people have spoken directly to them with their signatures. And this follows years and years of numerous meetings where hundreds of members of the public in attendance have spoken on behalf of public use of some sort, and against hotel development on that site. Additionally the SHAPE committee met for 8 months with countless public workshops, with a final report that a hotel is not the highest and best use on the Adams site.

Most recently, the Financial Task Force Final Report recommended two additional hotels in town, but did not have a preference on the locations: "We express no location preference, and we don't see a current necessity for more than two hotels, but we do see two hotels as the best way to fund the infrastructure improvements under consideration."

Please focus on the most important aspect of this initiative and listen to the people of St Helena. Do not send a message to the public that their collective voices are easily dismissed. Find a way to allow people to vote on their public property, or listen to the already multiple messages you have received over a decade.

Thank you,  
Ann Nevero



**Cindy Tzaopoulos**

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**From:** Hollys Horizons <holihshorizons@outlook.com>  
**Sent:** Wednesday, July 8, 2020 5:41 PM  
**To:** Public Comment  
**Subject:** [External] Request for Special Meeting on Adams Street Initiative

Dear Mayor Ellsworth, City Council Members and City Staff,

Almost 10% of St Helenan's joined together under dire circumstances to ask their voices with all St Helena registered voters can be listened to and make a difference about the use of the downtown Adams Street property that has had so much personal history and value to our community for generations.

I sincerely request this property is not sold from under all our feet for your TOT dollars that are likely to be much greater at the Farmstead Hotel proposal on the table whose heart and soul and the Spirit of St Helena are behind the idea.

I implore you to let St Helena's voice be heard and choice be known by placing the Adams Street initiative on the November ballot.

Thank you for your heartfelt consideration.

Respectfully submitted,

Holly Rogers

St Helenan since 1992

Sent from Windows Mail



**Cindy Tzaopoulos**

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**From:** Steve Kinney <wineoguy2@gmail.com>  
**Sent:** Wednesday, July 8, 2020 5:00 PM  
**To:** Public Comment  
**Subject:** [External] Adams St Proposition

On the issue of the proposed Proposition for Adams Street Property

It seems that the discussion about placing this on the ballot is mute. The City Attorney has declared that Council should "Decline to put on ballot". The proposition, as written, is flawed and not legal. It will only lead to further litigation and costs. It is not a matter of for or against.

Sincerely

Steven Kinney  
[wineoguy2@gmail.com](mailto:wineoguy2@gmail.com)



## Cindy Tzaopoulos

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**From:** peterrscott@gmail.com  
**Sent:** Wednesday, July 8, 2020 6:44 PM  
**To:** Cindy Tzaopoulos  
**Subject:** FW: [External] Ballot Initiative Restricting Adams Street Hotel Development

Hi Cindy,  
 Earlier today I sent the email below with my comments on the Adams Street Ballot initiative being discussed in tonight's meeting.  
 Can you please post this to the meeting website under Public Comments?  
 Thank you,  
 Peter Scott

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**From:** peterrscott@gmail.com <peterrscott@gmail.com>  
**Sent:** Wednesday, July 8, 2020 2:08 PM  
**To:** 'publiccomment@cityofsthelena.org' <publiccomment@cityofsthelena.org>  
**Subject:** Ballot Initiative Restricting Adams Street Hotel Development

Mayor Ellsworth, Council Members, City Staff and Community Members,

I urge the Council to accept the recommendation of the City Attorney and deny this well-intended, but fraughtful, initiative.

While I believe the petitioner and signing members of the community have honest and sincere motives in submitting this petition, any ballot measure must be legally sound and fully compliant with California law. To act otherwise, would be reckless and potentially harmful to the City.

Aside from the legal aspects of this ballot submission and sincerity of its supporters, I personally find the initiative to be subversive to electoral process which has been fully open, transparent, and welcoming to public input on this topic. While present day disagreements on development are welcome discourse by the community, experts, and public officials, placing development restrictions on this property in *perpetuity* stretches reason and needlessly obstructs unforeseen opportunities. We can do better. And we need to act faster and more decisively than our endless meandering on this topic.

Finally, I would encourage all parties to look beyond the binary options being presented. This does not have to be an all or nothing proposition; e.g. a sprawling resort or an open community space. There is room for middle ground here that envisions uses that satisfy revenue needs and creates public enhancement.

Happy to share ideas with open-minded neighbors!

And of course, thank you all for your civic service.

Peter Scott  
 1905 Birch St  
 707.225.1282  
[peterrscott@gmail.com](mailto:peterrscott@gmail.com)



Thank you for this opportunity to speak. I hope these thoughts contribute positively to your deliberations.

I have read the proposed “Public Property Protection Act” initiative statement and the City Attorney’s analysis. I have some thoughts and then three recommendations for your consideration:

- The initiative, if placed on the ballot, would probably result in substantial expenditures by the various interest groups to support or defeat it. Since the initiative does not meet the legislative standards, this would be a waste and probably create a great deal of anger and division regardless of how the vote turned out.
- While it might not have legal standing, the initiative, if passed, would make it difficult for the Council to proceed with plans now or in the future as to the best uses of the land’s value to the city. This could limit funding for desirable projects such as affordable or workforce housing, cultural and recreational development, or other desirable community enhancements.
- There have been innumerable expressions of public comment received about Adams Street development including the 2009 citizens plan, town hall meetings, SHAPE committee options, surveys, focus groups, and most recently, the Financing Civic Infrastructure committee. These have generally supported the preservation of a portion of Adams Street bordering on Library Lane for community benefit.
- However, the petition has over 400 confirmed signers. While this represent only about 15% of the number of citizens who voted in the 2018 Mayoral election it is a significant number and deserves to be recognized.

I propose the following:

- Adopt the recommendations of the City Attorney and the City Administration to decline to place the initiative on the November ballot as binding on the City Council

- Vote immediately to exclude commercial development of the Library Lane portion of the Adams Street Property. This would take potential hotel development of the entire Adams Street property off the table and make it clear that any private development would be on the back portion only.
- Place the “initiative” text on the ballot as a non-binding measure for a “sense of the citizens” on hotel/motel development but limited to the back portion of Adams Street. The legislative analyst would present factual and balanced pros and cons and supporting statements from each interest group. This offers the Council the best opportunity to get the broadest input of the public view and can help inform Council decision making.

As an alternative, but still meeting the same goals, the Council could order a survey mailed to every St. Helena registered voter presenting the same advisory text and supporting information.

Either of these approaches would probably be less satisfying to those who want the initiative on the ballot as a binding provision, but it would give everyone an opportunity to weigh in.