

**NAPA COUNTY PUBLIC WORKS
LOT LINE ADJUSTMENT ORDINANCE
CERTIFICATE OF COMPLIANCE ORDINANCE
Proposed Updates**

*Stakeholder Meeting: July 8, 2014
Other comments by email*

SUMMARY: COMMENTS/STAFF RESPONSES

LLA Approval Standards

1. Concerns about review of septic system requirements

Staff response: There are some LLA applications which cannot satisfy the requirements of the approval standards in the current ordinance, and would be denied. One example would be a minor adjustment of two small already-developed parcels (<1 acre) to account for improperly located structures or fences. The goal of the changes originally proposed by staff is to allow such applications to be approved when it makes sense to do so.

Existing ordinance language includes the following provisions (**emphasis added**):

- 17.46.040 (C) (9) The size of any adjusted parcel that will utilize an individual sewage system will **equal or exceed the minimum parcel size** established by Section 13.32.040. For purposes of this subsection, the size of the adjusted parcel shall be computed by deducting from the gross area of the parcel that portion of the parcel which has been dedicated or offered for dedication to a public agency for public roadway purposes and utility easements.
- 17.46.040 (C) (10) If a parcel greater than ten acres in size will be reduced by the lot line adjustment to a size less than ten acres, exclusive of public road and utility easements, **the reduced parcel must either be connected to a public sewer or, either be suitable for an on-site sewage disposal system** meeting the requirements of Division II of Title 13 of this code, **or meet the requirements for use of an on-site sewage disposal system on an abutting parcel** as set forth in Section 13.28.050.

The goal of both sections is to avoid having a lot line adjustment process result in a parcel configuration which cannot satisfy current parcel design requirements for septic systems, by either fully meeting minimum parcel size standards, or by demonstrating the ability to comply with the regulations for these systems as contained in Title 13 of the County Code.

In recognition of concerns like those in the introductory paragraph above, staff proposed modifications as follows:

- 17.46.040 (C) (9) The size of any adjusted parcel that will utilize an individual sewage system will equal or exceed the minimum parcel size established by Section 13.32.040. For purposes of this subsection, the size of the adjusted parcel shall be computed by deducting from the gross area of the parcel that portion of the parcel which has been dedicated or offered for dedication to a public agency for public roadway purposes and utility easements. This approval standard shall not apply to parcels less than the minimum parcel size that have an existing legal individual sewage disposal system, provided the adjusted parcel is not getting smaller and still has the required 100% expansion area.
- 17.46.040 (C) (10) If a parcel greater than ten acres in size will be reduced by the lot line adjustment to a size less than ten acres, or if a parcel less than 10 acres in size is being further reduced, exclusive of public road and utility easements, the reduced parcel must either be connected to a public sewer or, either be suitable for an on-site sewage disposal system meeting the requirements of Division II of Title 13 of this code, or meet the requirements for use of an on-site sewage disposal system on an abutting parcel as set forth in Section 13.28.050. The deeds effecting the lot line adjustment shall incorporate the requirements of Section 13.28.050(B) as applicable.

During the public review of the proposed ordinance updates, questions were raised about possible scenarios that might be involved in a LLA application, and the ability to provide information required to satisfy the code requirements. In discussions with Environmental Health staff from the Department of Planning, Building & Environmental Services (PBES), the following principles were identified which underlie these requirements:

- All parcels which rely on onsite wastewater disposal must have sufficient septic and expansion areas.
- Provision of these areas is especially critical in smaller parcels (less than 10 acres).
- If there is enough information to already know that septic systems will work satisfactorily, no additional evaluation is required. If more information is needed, further evaluation will be required, to the extent necessary to know that septic disposal will work. *This represents no change from existing requirements.*
- Larger parcels (greater than 40 acres) will not require any site evaluation at all.

The focus of the current ordinance update is to streamline and improve customer service associated directly with the processing of lot line adjustment applications, specifically the rules contained in Chapter 17.46 of the county code. No changes are proposed to the requirements for septic systems, other than to define (in 17.46) a few narrow circumstances in which they do not apply. No changes are proposed to the septic requirements (in 13.28) themselves, for when they would still apply. ***No additional changes are proposed in this ordinance package.***

LLA Final Processing

2. Timing of finalizing LLA deeds and modification of financial documents – Lending institutions have inconsistent policies and lack understanding of Napa County's process. There was a suggestion to allow for final approval of LLA documents by staff while lending institutions are in progress on their requirements.

Staff response: Staff concurs with the concerns raised by this comment, and proposed the creation of a new provision to allow applicants to request a 45-day time extension when necessary to

respond to these concerns. Staff review of LLA documents for final approval already occurs concurrent with lending institutions' modification of the final documents. **No additional changes are proposed.**

3. Time extensions

(A) There was a suggestion to allow for other reasonable grounds to qualify for a time extension.

(B) There was an inquiry regarding the requirements to request a time extension.

Staff responses: (A) Staff has worked on many applications which needed additional time to complete the modification of mortgage or other financial documents to reflect the adjusted parcels, and proposed the creation of a new provision to allow applicants to request a 45-day time extension in this circumstance. Although no other situations which would benefit from a time extension provision have come to the attention of County staff, it is certainly possible that other reasonable circumstances could exist. **Staff supports this request and the proposed ordinance language will be modified as follows: "The County Surveyor may grant one 45-day extension of time for recording deeds if necessary due to delay on the part of the applicants lending institution. The request for the one time extension must be in writing to the County Surveyor at a minimum of 5 days prior to the expiration date for recording, and must state the reason for requesting the extension."**

(B) An applicant seeking a time extension must simply submit a written request to the County Surveyor (email would be acceptable), indicating the need for extension and their commitment to complete the project within the 45 days' available extension. **Staff feels that this is sufficiently covered by the proposed ordinance language, and no additional change is proposed in response to this comment.**

4. Consider allowing a longer duration of the initial approval, and longer possible time extensions.

Staff response: Staff has worked on many applications which needed additional time to complete the modification of mortgage or other financial documents to reflect the adjusted parcels, and proposed the creation of a new provision to allow applicants to request a 45-day time extension in this circumstance. In staff's experience, applicants typically fall into two groups. Those in a hurry to complete their LLA application never experience any problem meeting the time frame requirements that are already provided in the ordinance. Other applicants tend to put off working on the satisfaction of the approval standards and other requirements until the "last minute," and staff is concerned that if a longer duration of the initial approval were provided, the "last minute" would simply occur that much later than it does now. Similarly, 45 days was identified as a reasonable length of time for a time extension, based on staff's experience and that of local title insurance companies, with whom we work closely on these applications. **Thus, staff does not concur with this request and no additional change is proposed in response to this comment.**

5. Concerns about provisions for notice, appeals – There was concern expressed regarding the proposals to make changes in these areas of the LLA ordinance.

Staff response: Based on the outcome of recent litigation regarding the ministerial nature of lot line adjustments, County staff was considering modification to some provisions of the LLA ordinance, which would have reduced the number of people who would receive notice of denials or appeals of these applications. **In response to this input from the public, staff has decided not to pursue these changes.**

Background: The ordinance currently requires that when a lot line adjustment application is denied or receives tentative approval (that is, all the approval standards have been satisfied), notice is provided to the following parties:

- Applicant
- Owners of record title interests or holders of recorded liens
- Property owners within 300 feet of the outer perimeter of the property involved, based on the Assessor's records
- State or Federal agencies when contiguous, even if not listed in assessment records
- Persons who have filed written request for notification, within the past 12 months
- Publication in local newspaper (only for tentative approvals)

All parties receiving notice are informed of their right to appeal the action of the County Surveyor, as follows:

- Denial of an application may be appealed by the property owner.
- Tentative approval may be appealed by any interested person as defined in Chapter 2.88 of the County Code. Referred to as the Appeals Ordinance, Chapter 2.88 defines an "interested person" for purposes of lot line adjustment appeals as "any member of the public".
- Appeals are limited to whether the County Surveyor appropriately applied the approval standards.

Note that final approval (of the deeds which consummate the lot line adjustment) is not subject to appeal.

Staff had proposed changes to delete the provisions that members of the public could file written requests to be notified of specific LLA actions, and that those written requests are valid for only one year unless renewed.

One person in the July 8 meeting expressed concern with eliminating the provision for notification, and the related theme of who should be able to file an appeal. Staff provided information that very few requests for notification had ever been submitted, and at the current time, there are no such requests which have not expired.

6. Timing of finalizing one LLA to qualify for new application – There was a request for clarification of when a lot line adjusted parcel was considered eligible to be included in a subsequent LLA application.

Staff response: Any parcel which is a legal lot of record may be included within an application for Lot Line Adjustment. A parcel which results from a lot line adjustment becomes a legal lot of record at the time of recordation of the deed(s) consummating the adjustment. Section 17.02.360 (B) specifies a previously adjusted lot becomes eligible for further adjustment upon recordation of the resulting deed(s). **No change is proposed in response to this comment.**

Voluntary Mergers

7. Voluntary mergers – There was an inquiry regarding the sequence of steps in this review process.

Staff response: Staff discussed the details of this process with the commenter, and they were satisfied with the information provided. ***No change is proposed in response to this comment.***

Certificates of Compliance

8. Potential to implement State legislation – In 1997, the State adopted legislation which enabled Napa County to require applicants for building permits or other development to merge undeveloped substandard parcels that are contiguous and are held in common ownership. The goal of the legislation was to protect the value and productivity of the County’s agricultural land by providing relief from State law requirements recognizing parcels created prior to current subdivision regulations. Merging substandard antiquated parcels would have the effect of “retiring” such parcels, which are often the subject of applications for Certificates of Compliance. The County would have to adopt an ordinance to implement this legislation, and has never chosen to do so. In response to the announcement of the proposed minor updates to the Certificate of Compliance ordinance, the Napa County Farm Bureau raised the suggestion to consider implementing the 1997 legislation, or possibly pursue other legislative relief from the current parcel recognition requirements, in order to strengthen the integrity of farmland preservation efforts, either just at the County level, or potentially statewide.

Staff response: ***As this is more a policy question than an ordinance implementation question, staff recommends that the Board refer this matter to its legislative subcommittee for additional consideration.***