



A Tradition of Stewardship
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Planning, Building & Environmental Services

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David Morrison
Director

MEMORANDUM

To: Napa County Board of Supervisors From: David Morrison

Date: November 13, 2018

Re: Adoption of a Resolution Providing
Direction Regarding the County Code
Compliance Program

Recommendation

Staff recommends that the following be deleted from Section 1.a.vi of the proposed draft resolution:

Notice of the Director's decision will be mailed to the applicant/property owner and owners of property located within 1,000 feet of the subject parcel, as well as interested parties, and will be posted on the PBES website.

Background

The draft resolution states that the Director's decision (regarding the Status Determination) **would be issued administratively** (emphasis added) within 120 days of the application being determined complete, without a public hearing. Based on this clear direction, and after further consideration, staff recommends that Status Determination Applications be treated in the same fashion as other ministerial actions, which do not require public notice of applications or decisions.

Status determinations are already available from PBES, as permit holders can (and frequently do) seek confirmation of their permitted rights and existing legal entitlements. Those existing requests and determinations are not currently subject to public notice. The determination of existing legal entitlements is an administrative, ministerial process. Determinations do not authorize, permit, modify or expand any land uses, but merely confirm the existing legal entitlements previously granted by the County. Public notice is not required by either the County Code or the California Environmental Quality Act, which does not apply to ministerial actions. (Public Resources Code, § 20180, subd. (b)(1).)

Staff notes that the County Code already authorizes the approval of certain new development projects without a public hearing, through Section 18.126.010 of the County Code (Administrative Permits):

In order to streamline review of certain types of land use permits, encourage expedited review and improve the use of county planning staff resources, the board has

determined that it is in the best interests of the public health, safety and welfare to create an administrative, ministerial permit process for the review of certain types of applications that generally involve little or no controversy and do not involve the exercise of discretion, personal judgment or wisdom or significant environmental impacts. The administrative permits provided for herein are intended to provide adequate standards to ensure that the uses specified herein do not have a detrimental effect on their surroundings or adjacent uses. In order to streamline review of certain types of land use permits, encourage expedited review and improve the use of county planning staff resources, the board has determined that it is in the best interests of the public health, safety and welfare to create an administrative, ministerial permit process for the review of certain types of applications that generally involve little or no controversy and do not involve the exercise of discretion, personal judgment or wisdom or significant environmental impacts. The administrative permits provided for herein are intended to provide adequate standards to ensure that the uses specified herein do not have a detrimental effect on their surroundings or adjacent uses.

As described in the draft resolution presented to the Board of Supervisors for consideration on November 13, 2018, Status Determinations similarly:

- Involve only an administrative, ministerial process;
- Do not modify or expand existing legal entitlements;
- Do not create new detrimental effects on surroundings or adjacent uses; and
- Are based on the facts of the legal entitlement and do not require the exercise of discretion or personal judgment.

As stated in Section 18.126.040, applications for Administrative Permits require applicants to submit in writing the grounds for the application and the facts they rely upon. Status Determinations involve a similar process, in which staff evaluates existing use permits, use permit modifications, other land use entitlements, and any documents provided by the applicant. Like Administrative Permits, Status Determination should not require public notice.