



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 12/6/2011
Agenda Placement: 9F
Set Time: 10:15 AM PUBLIC HEARING
Estimated Report Time: 90 Minutes

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Gitelman, Hillary - Director
Conservation, Development & Planning
REPORT BY: Hillary Gitelman, Director - 253-4805
SUBJECT: Historical Preservation Ordinance

RECOMMENDATION

First and final reading and adoption of two ordinances collectively referred to as the Landmark Preservation Ordinance Update that would designate a list of six "landmarks of special significance" which may be used for their historic use(s) or compatible new uses if their owner(s) obtain a use permit following site-specific environmental review.

ENVIRONMENTAL DETERMINATION: In accordance with CEQA and the State CEQA Guidelines (Section 15168), the County is proposing to use the program level Environmental Impact Report (EIR) for the General Plan Update (SCH#2005102088, certified June 2008) as the EIR for the two ordinances collectively referred to as the Landmark Preservation Ordinance Update. As discussed in a separate memorandum and checklist (initial study) dated August 15, 2011 and a supplemental memorandum dated November 4, 2011, this approach is consistent with CEQA and the State CEQA Guidelines because (1) the proposed update is within the scope of the General Plan approved in 2008, and (2) the program EIR prepared for the General Plan Update adequately describes the activity for purposes of CEQA. In addition, (3) the County has not identified any changes in the General Plan, changes in circumstances under which the General Plan Update was adopted, or new information of substantial importance that would necessitate subsequent environmental review pursuant to CEQA Guidelines Section 15162. A copy of the General Plan Update EIR may be reviewed during business hours at the offices of the Department of Conservation, Development and Planning, 1195 Third Street in Napa, or on the County's website, www.countyofnapa.org.

EXECUTIVE SUMMARY

First reading and adoption of two County-sponsored ordinances related to the preservation of specific historic resources in unincorporated Napa County. The first ordinance would designate six "landmarks of special significance" that were originally constructed for commercial or resort purposes and that are currently considered at risk, and would permit these six landmarks to be reused for their historical use(s) if their owner(s) obtain a use

permit following site-specific environmental review. The second ordinance would allow the same listed "landmarks of special significance" to be reused for a compatible new use if their owner(s) obtain a use permit following site-specific environmental review. Both ordinances would institute specific use permit findings and place limitations on possible uses: historic uses could not include illegal uses such as gambling and prostitution, and compatible new uses could only include uses that are permitted in the County's Commercial Limited (CL) and Commercial Neighborhood (CN) zoning districts. Both ordinances would implement an action item included in the General Plan Update of 2008.

PROCEDURAL REQUIREMENTS

1. Open Public Hearing
2. Staff reports
3. Public comments
4. Close Public Hearing.
5. Clerk reads the title of the first ordinance.
6. Motion, second, discussion and vote to waive the balance of the reading of the first ordinance.
7. Motion, second, discussion and vote to adopt the first ordinance.
8. Clerk reads the title of the second ordinance.
9. Motion, second, discussion and vote to waive the balance of the reading of the second ordinance.
10. Motion, second, discussion and vote to adopt the second ordinance.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

In accordance with CEQA and the State CEQA Guidelines (Section 15168), the County is proposing to use the program level Environmental Impact Report (EIR) for the General Plan Update (SCH#2005102088, certified June 2008) as the EIR for the two ordinances collectively referred to as the Landmark Preservation Ordinance Update. As discussed in a separate memorandum and checklist (initial study) dated August 15, 2011 and a supplemental memorandum dated November 4, 2011, this approach is consistent with CEQA and the State CEQA Guidelines because (1) the proposed update is within the scope of the General Plan approved in 2008, and (2) the program EIR prepared for the General Plan Update adequately describes the activity for purposes of CEQA. In addition, (3) the County has not identified any changes in the General Plan, changes in circumstances under which the General Plan Update was adopted, or new information of substantial importance that would necessitate subsequent environmental review pursuant to CEQA Guidelines Section 15162. A copy of the General Plan Update EIR may be reviewed during business hours at the offices of the Department of Conservation, Development and Planning, 1195 Third Street in Napa, or on the County's website, www.countyofnapa.org.

BACKGROUND AND DISCUSSION

On October 18, 2011, the Board of Supervisors conducted a public hearing and considered possible adoption of two ordinances and one resolution collectively referred to as the Landmark Preservation Ordinance Update. At that time, the Board approved one of the ordinances and thereby updated the procedures and standards for the preservation of historic buildings when property owners voluntarily apply for landmark designation and provided

incentives for landmark designation and rehabilitation/reuse of certain types of historic buildings. The Board also approved the resolution creating a "Mills Act" tax incentive program for some types of historic buildings.

On October 18, 2011, the Board declined to adopt the second ordinance which would have provided for the reuse of historic commercial and resort properties, requesting modifications to the ordinance as follows:

- Modify the ordinance to include a specific list of historic commercial and resort properties so there is no uncertainty as to which resources would qualify for reuse;
- Modify the ordinance to allow listed resources to be reused for their historic use(s) and not for uses allowed in the Commercial Limited (CL) or Commercial Neighborhood (CN) zoning districts; and
- Prepare a separate ordinance for the Board's consideration that would allow the listed resources to be reused for other commercial uses (i.e. not just their historic uses).

The Board also requested that County Counsel provide additional legal analysis and that a proposed General Plan amendment be prepared for placement on the ballot with the second ordinance if staff determines that the ordinance cannot be adopted without voter approval pursuant to Measure P (2008).

Pursuant to Napa County Code Section 18.136.070, when the Board of Supervisors requests changes to an ordinance that the Planning Commission has not considered, the Board must refer the changes back to the Planning Commission for a report and recommendation, which must be provided within 40 days. On November 16, 2011, the Planning Commission conducted a public hearing to consider two ordinances reflecting the Board's requested changes and recommended that the Board of Supervisors adopt the two ordinances. The Commission further recommended that if the Board of Supervisors is not comfortable adopting the second ordinance without voter approval, that they consider putting an item on the ballot to place the six referenced properties into an "historical" zoning district and amend the General Plan accordingly. A written report of the Commission's recommendations was forwarded to the Board of Supervisors on November 17, 2011 and is attached together with the proposed ordinances and supporting information and analysis.

The Planning Process

The proposed ordinances would implement Action Item CC-28.1 in the General Plan, which was adopted as part of the General Plan Update in June of 2008. Action Item CC-28.1 calls on the County to establish a discretionary process whereby owners of qualified historic buildings within agricultural areas of the County may apply for permission to reuse their building for their historic use or a compatible new use as long as the use is compatible with agriculture and the historic building is rehabilitated and maintained in conformance with the U.S. Secretary of the Interior's Standards.

On March 2, 2011, the Planning Commission conducted a public hearing on a proposal to update the County's Landmark Preservation Ordinance and requested changes to the draft ordinance presented by staff. Specifically, the Commission asked staff to revise the ordinance so that it would offer more incentives to more historic resources, instead of proposing a "test" aimed at two specific properties. The Commission also asked staff to address comments from members of the public who spoke at the meeting to the extent possible.

Consistent with the Commission's direction, planning staff worked with County Counsel to broaden the original draft ordinance, and proposed a collection of incentives in two ordinances and one resolution, as described above. Planning staff held stakeholder meetings on April 25th and June 9th, reported on the status of outreach and planning efforts at a Planning Commission meeting on June 15, 2011, and continued to meet with interested members of the public up to and after a final Planning Commission hearing on September 7, 2011. At that time, the Planning Commission recommended that the Board of Supervisors find that the proposed project is within the scope of the General Plan Update program-level EIR for the reasons stated in the accompanying memo and initial study, adopt the two proposed ordinances, and adopt the proposed resolution. The Commission was

unanimous in recommending the first ordinance and the resolution, and split 3-2 in recommending the second ordinance after requesting a number of corrections and amendments that were subsequently incorporated into the materials provided for the Board's consideration.

As indicated above, the Board of Supervisors approved one ordinance together with the Mills Act resolution at their hearing on October 18, 2011, and requested changes to the second ordinance. As a result of the Board's request, the second ordinance was split into two again and the Planning Commission held another public hearing on November 16, 2011. At that time, the Planning Commission recommended adoption of the two ordinances and also suggested an alternative course of action if the Board is uncomfortable adopting the second ordinance.

"Landmarks of Special Significance" & the Proposed Ordinances

The two ordinances currently proposed would memorialize a list of six "landmarks of special significance" that were constructed and used as commercial/resort properties and that are considered both historically significant and "at risk" of demolition through neglect unless a viable reuse strategy is identified. The list of six properties was proposed by staff following a review of information in the survey of potential historic resources completed in 1978 by two local preservation/planning professionals. It includes:

- 3413 N. St. Helena Highway
- Aetna Springs Resort
- Napa Soda Springs Resort
- Pope Valley Store
- Rutherford Depot
- Walter Springs

A certified letter has been sent to the owners of those buildings on the list who have not already contacted the County, seeking their input on the listing. It is also possible that other property owners will present the Board with evidence or evaluations supporting inclusion of their properties. On November 16, 2011, the Planning Commission received testimony in support of and in opposition to placing the Pope Valley Motel on the list and decided to leave the above list of six properties unaltered. Property owners within 300 feet of each property have received notice.

As currently drafted, the proposed ordinances would allow owners of the six listed properties to apply for a use permit seeking permission to use extant historic buildings for their historic use (ordinance one) or a compatible new use (ordinance two) if specific use permit findings can be made. Environmental review would be required before the Planning Commission could consider a proposed reuse, and properties could only qualify if they were specifically listed in the ordinance. Adding properties to the list would require adoption of another ordinance.

The specific use permit findings required by both ordinances would ensure that resulting projects are compatible with agriculture and respectful of the historic resources themselves. Owners who propose reuse of buildings for their historic use(s) pursuant to the first ordinance would have to provide some evidence of those uses, and could not propose illegal uses such as gambling or prostitution. Owners who propose compatible new uses pursuant to the second ordinance would only be able to propose uses that are permitted in the Commercial Limited (CL) or Commercial Neighborhood (CN) zoning districts (see attached).

General Plan Consistency & Measure P

The County's General Plan includes a number of policies encouraging the preservation of historic resources. These policies support the identification and preservation of resources from Napa County's historic and prehistoric periods (Policy CC-19), and encourage the County to offer incentives for the appropriate rehabilitation and reuse of

historic buildings. The proposed ordinances advance the following goals and policies of the Napa County General Plan:

- Goal CC-4: Identify and preserve Napa County's irreplaceable cultural and historic resources for present and future generations to appreciate and enjoy.
- Policy CC-18: Significant historical resources are buildings, structures, districts, and cultural landscapes that are designated Napa County Landmarks or listed in or eligible for listing in either the National Register of Historic Places or the California Register of Historic Resources. Owner consent is a prerequisite for designation as a County Landmark.
- Policy CC-19: The County supports the identification and preservation of resources from the County's historic and prehistoric periods.
- Action Item CC-19.2: Consider amendments to the County zoning and building codes to improve the procedures and standards for property owner-initiated designation of County Landmarks, to provide for the preservation and appropriate rehabilitation of significant resources, and to incorporate incentives for historic preservation.
- Policy CC-24: Promote the County's historic and cultural resources as a means to enhance the County's identity as the nation's premier wine country and a top tourist destination, recognizing that "heritage tourism" allows tourists to have an authentic experience and makes good business sense.
- Goal CC-5: Encourage the reuse of historic buildings by providing incentives for their rehabilitation and reuse.
- Policy CC-26: Projects which follow the Secretary of the Interior's Standards for Preservation Projects shall be considered to have mitigated their impact on the historic resource.
- Policy CC-28: As an additional incentive for historic preservation, owners of existing buildings within agricultural areas of the County that are either designated as Napa County Landmarks or listed in the California Register of Historic Resources or the National Register of Historic Places may apply for permission to reuse these buildings for their historic use or a compatible new use regardless of the land uses that would otherwise be permitted in the area so long as the use is compatible agriculture, provided that the historic building is rehabilitated and maintained in conformance with the U.S. Secretary of the Interior's Standards for Preservation Projects. This policy recognizes that, due to the small number of existing historic building in the County and the requirement that their historic reuse be compatible with agriculture, such limited development will not be detrimental to the Agriculture, Watershed or Open Space policies of the General Plan. Therefore, such development is consistent with all of the goals and policies of the General Plan.

An expanded evaluation of General Plan consistency is provided in the attached memorandum dated October 11, 2011 and is further discussed in the memorandum dated November 4, 2011 responding to Farm Bureau comments.

Since the Board of Supervisors hearing on October 18, 2011 and in making requested revisions to the proposed ordinance, Planning staff has again assessed the issue of General Plan conformity and believes that the proposed ordinances can be adopted without a General Plan amendment. Specifically, while the ordinances would allow uses that are not explicitly called out in Policies AG/LU-12, -20, and -21, the ordinances are expressly anticipated by Policy CC-28 and can be found to be "on balance" consistent with the General Plan as a whole. As the Farm Bureau comments indicate, "balancing" is not always appropriate when specific, mandatory general plan policies are violated. However in the current instance, staff has not identified any such violation. Even Policy AG/LU-12 -- which is very specific -- might not necessarily be viewed by a court as "mandatory" because it fails to list schools, churches, and home occupations, which are non-agricultural uses that are clearly permitted in agricultural areas. (Policy AG/LU-12 also refers to "new" development, which could be argued does not apply to the reuse of existing buildings.)

Planning staff acknowledges, however, that interpretation of the General Plan is ultimately within the purview of the

Board of Supervisors who will decide whether the proposed ordinances can be found to be consistent with the General Plan and whether the proposed ordinances could or should be adopted. If the Board believes that the ordinance(s) cannot be found consistent with the General Plan, they should reject the proposal or direct staff to prepare a General Plan amendment for placement on the ballot for consideration by the voters pursuant to Measure P (2008). If this is the Board's direction, staff would request adoption of a motion of intent, and an opportunity to return to the Board with proposed ballot language. The text of Measure P is attached, and clearly requires voter approval if the Board wishes to re-designate land or alter the text of General Plan Policies AG/LU-20 or -21.

SUPPORTING DOCUMENTS

- A . First Proposed Ordinance (Historic Use) - Tracked
- B . First Proposed Ordinance (Historic Use) - Clean
- C . Second Proposed Ordinance (Compatible New Use) - Tracked
- D . Second Proposed Ordinance (Compatible New Use) - Clean
- E . CEQA Document - August 15, 2011
- F . General Plan Conformity Memo - October 11, 2011
- G . Farm Bureau Letter - October 17, 2011
- H . November 4, 2011 Memorandum - Response to Selmi/Farm Bureau
- I . Text of Measure P (2008)
- J . Planning Commission Report & Recommendation
- K . Uses Permitted in the CL and CN Districts

CEO Recommendation: Approve

Reviewed By: Molly Rattigan