



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 2/10/2015
Agenda Placement: 9C
Set Time: 9:15 AM PUBLIC HEARING
Estimated Report Time: 20 Minutes

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: David Morrison - Director
Planning, Building and Environmental Services
REPORT BY: Brian Bordona, Supervising Planner - (707) 259-5935
SUBJECT: Amendments to County's Local CEQA Guidelines

RECOMMENDATION

Director of Planning Building and Environmental Services requests adoption of a resolution updating Napa County's Local Procedures for Implementing California Environmental Quality Act (CEQA).

ENVIRONMENTAL DETERMINATION: Procedures by definition do not change the law, but provide for its implementation. Therefore the proposed action is not a project as defined by Title 14 California Code of Regulations (CCR) Section 15378 (State CEQA Guidelines) and CEQA is not applicable. Also, it can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable pursuant to the General Rule contained in the Guidelines for Implementation of the California Environmental Quality Act, Title 14 CCR Section 15061(b)(3).

EXECUTIVE SUMMARY

Proposed Action:

That the Board of Supervisors hold a public hearing and upon close of the hearing, adopt the proposed resolution updating Napa County's Local Procedures for Implementing CEQA.

Request:

County-sponsored resolution revising Napa County's local procedures for implementing CEQA and the State CEQA Guidelines, removing the County's list of qualified consultants and eliminating the option for applicants to contract directly with environmental consultants, expanding the radius of public notice provided regarding CEQA documents from 300 feet to 1,000 feet from the project parcel, and other non-substantive clerical corrections.

Discussion:

The proposed revisions are intended to improve processing efficiencies from both a schedule and cost perspective while maintaining the impartiality of the analysis contained in CEQA documents including Environmental Impact Reports. The revisions also increase the public noticing distance for environmental documents from 300 feet to 1,000 feet from the project parcel as well as other non-substantive changes.

On November 7, 2014, the proposed revisions were forwarded to the Development Stakeholders group email list and other members of the public for review and comment. Staff has engaged in outreach with stakeholders and other members of the public to provide details on the nature of the proposed updates. Of particular note, stakeholders voiced concerns over the ability of applicants to submit technical reports (i.e. traffic, archaeological reports, etc.) prepared by consultants hired by property owners. As a result, clarifying language was added to the proposed revisions to clearly state the proposed changes apply to the preparation of CEQA documents such as an environmental impact report, negative declaration or mitigated negative declaration. On December 17, 2014, the Winegrowers of Napa County offered additional edits to further clarify the proposed changes apply to the preparation of CEQA documents. Planning staff agreed with their changes and the Planning Commission subsequently recommended approval to the Board of Supervisors during their December 17, 2014 meeting. On January 12, 2015, additional questions were raised by the Napa Valley Grapegrowers including 1) the ability of applicants to choose the consultant, 2) ability to provide input and help direct the process, and 3) making efforts to give the applicant control in order to avoid hidden cost and time over runs. Their questions did not result in changes to the proposed revisions, but are addressed below in the background section.

PROCEDURAL REQUIREMENTS

1. Open Public Hearing.
2. Staff reports.
3. Public comment.
4. Close Public Hearing.
5. Motion, second, discussion and vote on the item.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

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BACKGROUND AND DISCUSSION

Napa County's Local Procedures for Implementing the California Environmental Quality Act (Napa County Procedures) were first adopted in 2004, and amended in August 2006 and 2010. The amendment in 2010

included changes that directed planning staff to establish and maintain a list of qualified consultants from which project sponsors could select a consultant and contract with to prepare CEQA documents. Prior to this amendment, the County contracted directly with consulting firms and administered the contract.

While the 2010 amendment provided another contracting option for project sponsors, maintaining the list to ensure consulting firms remain qualified proved to be time consuming due to frequent employee turn over within firms. In addition, when project sponsors contract directly with consultants, the County has limited control over contract administration which has been shown to result in inefficiencies related to costs, maintaining schedule, and consistency with the interpretation and application of County policies in the CEQA analysis. It is anticipated that with this proposed amendment to Napa County's Procedures, processing times and costs related to the County's responsibilities would be reduced and the project would be managed more efficiently.

The currently proposed revisions also include additions to the Initial Study Checklist and other non-substantive clerical corrections. One such change includes changes to the Initial Study Checklist to incorporate a "Background/Project History" section in the project description, define the term "expansive soil" pursuant to the California Building Code versus the Uniform Building Code (Section VI Geology and Soils), and incorporate standard checklist language for any future use of a subsequent negative (or mitigated) declaration.

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Under the existing system, applicants select a consultant from the County's list and set the terms of the contract, including tasks, deliverables, costs, and schedule. The applicant directs the consultant and manages the schedule and costs, while staff approve the final document. With the elimination of the list, the applicant and the County would choose and agree to a consulting firm to prepare the CEQA document. The County's primary concern in the selection of a consultant is to ensure that a given firm possesses the technical expertise to prepare a technically adequate and legally defensible CEQA document. County oversight of the CEQA document preparation also allows for neutral analysis and increased protection of the County's potential exposure to litigation. Applicants would continue to have the ability to provide input on the CEQA process (as does any member of the public) and would have to agree to any changes in the costs and schedule to the agreed upon scope of work. In the event additional tasks outside of the scope of work were determined to be necessary for the County to fulfill its obligations under CEQA, the County and consultant would immediately inform the applicant so the revisions could be discussed and the scope of work could be formally amended.

SUPPORTING DOCUMENTS

A . Resolution

B . Proposed Revised CEQA Guidelines

C . Sierra Club Letter

CEO Recommendation: Approve

Reviewed By: Molly Rattigan