



Agenda Date: 12/18/2007
Agenda Placement: 9A

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Hillary Gitelman - Director
Conservation, Development & Planning
REPORT BY: Hillary Gitelman, Director, 253-4805
SUBJECT: Successive Lot Line Adjustments

RECOMMENDATION

Director of Conservation, Development & Planning and Director of Public Works seek direction regarding preparation of an ordinance clarifying whether and under what conditions successive applications for lot line adjustments affecting up to four parcels will be processed by the County.

EXECUTIVE SUMMARY

The State's Subdivision Map Act ("the Act") was amended in October 2001 to exempt lot line adjustments affecting four or fewer parcels from requirements of the Act. While the resulting section of the Act (Section 66412(d)) is very specific with regards to the number of lots and the requirements to exempt the LLA from the Act, it does not address the issue of sequential applications by a single owner affecting adjacent or adjoining parcels. By not addressing the sequential application issue, interpretation to the intent of the amendment is broad and unclear. The crux of the interpretation is whether the intent of the amendment was to exempt applications affecting four or fewer lots regardless of sequential submission or was it to preclude exempting the sequential submission of applications and restrict the LLA to only four or fewer parcels with anything beyond following the Subdivision Map Act as it applies to 'resubdivision' of land.

There are at least two proposals before the County that would require sequential lot line adjustments affecting more than four parcels in total, and action by staff to either process the sequential applications or deny them based on either possible interpretation of the Act exemption could be subject to challenge. County Counsel has suggested preparation of a local ordinance to codify the County's position on this provision of the Act, and staff desires Board direction prior to preparation of a draft ordinance.

Procedural Requirements

1. Chair announces the agenda item.
2. Staff reports on the item.
3. Questions by the Board.

4. Chair invites public comments.
5. Member makes a motion.
6. Different member seconds the motion.
7. Board discussion and debate on the motion.
8. Chair calls for the vote.
9. If roll call vote requested by member, Clerk calls the roll.
10. Chair announces the result of the vote.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

The County's Department of Public Works recently received multiple applications from a single owner for lot line adjustments affecting a total of 16 contiguous parcels, although each individual application only affected four of the parcels. Several of these applications are sequential in the sense that a lot that was adjusted under one application was further adjusted under a sequential application. Receipt of these applications raised a question regarding the intent of the exemption provided by Section 66412(d) of the Subdivision Map Act. This Section is unclear whether it is intended to exempt applications affecting four or fewer parcels once and only once, or whether it is intended to exempt multiple, sequential or successive applications affecting more than four parcels as long as each individual application affects four or fewer parcels and results in no greater number of parcels than previously existed in the aggregate.

County Counsel has reviewed the matter and determined that several other counties have grappled with this issue and have taken the step of adopting a local ordinance codifying their position. For example, Butte County has an ordinance which would prevent sequential lot line adjustments affecting a total of more than four adjoining parcels. On the other hand, Santa Clara County has adopted an ordinance which allows sequential lot line adjustments, but requires a delay (of five years in this case) between processing the first application affecting four or fewer parcels and the second application affecting the same parcels, or other adjoining parcels under common ownership. Neither County's ordinance has been legally challenged, nor has any action by other counties to deny or approve sequential applications without benefit of a local ordinance. Under either ordinance stated above, the developer still has the option to apply for a tentative subdivision map subject to the laws of the Subdivision Map Act and discretionary review.

Given this state of affairs, County Counsel has outlined the three options that are available to the County:

1. Status Quo. In this option, County staff would continue to receive sequential applications affecting more than four parcels from applicants wishing to avoid submitting a tentative map and would process the applications sequentially without benefit of a local ordinance. Opponents of the proposed project would likely appeal the lot line adjustments to the Board of Supervisors. Since lot line adjustments are

themselves ministerial, the Board's deliberation on appeal would likely revolve around staff's interpretation of Section 66412(d) of the Act.

2. Ad Hoc Determination. In this option, County staff would make an ad hoc determination that successive lot line adjustments do not qualify for exemption from the Act and would deny successive applications affecting more than four parcels. Applicants would likely appeal the staff's decision, placing the matter before the Board of Supervisors for a final interpretation.
3. Adopt an Ordinance. In this option, County staff would prepare an ordinance for consideration by the Board of Supervisors after a duly noticed public hearing. The ordinance would outline the County's interpretation of Section 66412(d) of the Act.

County staff is recommending the third option and is seeking direction from the Board regarding the substance of the ordinance. Specifically, we are seeking direction as to whether the Board would like to consider an ordinance along the lines adopted by Butte County, an ordinance along the lines adopted by Santa Clara County, or an ordinance that allows sequential lot line adjustments affecting more than four parcels without a delay between the successive applications. Staff is recommending an ordinance along the lines adopted by Santa Clara County, which would give the County the ability to process successive applications, but with a waiting period or delay between them.

SUPPORTING DOCUMENTS

None

CEO Recommendation: Approve

Reviewed By: Helene Franchi