



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 12/9/2014
Agenda Placement: 9F
Set Time: 11:00 AM PUBLIC HEARING
Estimated Report Time: 15 Minutes

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors

FROM: David Morrison - Director
Planning, Building and Environmental Services

REPORT BY: David Morrison, Director, Planning, Building & Environmental Servi - (707) 253-4805

SUBJECT: An Ordinance Amending Various Sections of the Napa County Code and a Resolution Amending the Policy Manual re: Expanded Noticing

RECOMMENDATION

Director of Planning, Building and Environmental Services Department requests:

1. First reading and intention to adopt an ordinance to expand the radius from 300 feet to 1,000 feet for notice of public hearings before the Planning Commission or Zoning Administrator on discretionary land use applications by amending Sections 2.88.010 (Definitions), 2.88.050 (Appeal Packet - Information to be Submitted), 18.106.060 (Required Public and Private Notification), 18.119.220 (Telecommunication Facilities - Public Notice), 18.124.130 (Use Permit Modifications - Procedure - Size Limitation), 18.132.050 (Certificate of Present Extent of Legal Nonconformity - Application - Procedure), 18.136.040 (Public Hearing Before Commission - Notice); and
2. Adoption of a resolution amending Part 1, Section 12 of the Napa County Policy Manual as it relates to the Planning, Building and Environmental Services Department.

ENVIRONMENTAL DETERMINATION: General Rule. It can be seen with certainty that there is no possibility the proposed actions may have a significant effect on the environment and therefore CEQA is not applicable [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)].

EXECUTIVE SUMMARY

The frequency of neighbor complaints of insufficient public noticing for development proposals subject to Planning Commission review has increased. In May of this year, the Planning Commission conducted a study session to look at existing noticing procedures as well as providing feedback on the potential enhancement of noticing practices. Also in May of this year, the Planning Commission and Board of Supervisors in joint session discussed noticing practices and directed staff to prepare revisions to the County Zoning Ordinance noticing requirements

and administrative policies as follows: 1) to expand the mailed notice on Planning Commission and Zoning Administrator level entitlement requests from 300 ft. to 1,000 ft. from the subject property; and 2) provide notice early in the review process.

The attached ordinance expands the noticing radius from 300 ft. to 1,000 ft. from a project site for all discretionary projects subject to Planning Commission or Zoning Administrator review. Also attached is a resolution that would update the County Policy Manual by directing staff to use best efforts to provide a 'notice of pending project' generally within two weeks of project submittal. This courtesy notice would be sent to all property owners within 1,000 feet of the project, as well as all property owners on a shared private drive and any persons previously requesting notice on all projects as prescribed by State Law. Staff believe the attached resolution and ordinance are consistent with the general direction previously provided by the Board of Supervisors and Planning Commission.

On November 17, 2014, the Planning Commission conducted a public hearing on the proposed ordinance and the proposed resolution amending the Policy Manual. Testimony was provided by staff and from interested members of the public. Commenters spoke in favor of the proposed changes. At the conclusion of the hearing, the Commission voted (5:0) recommending that the Board of Supervisors: (1) adopt the ordinance as proposed; and (2) adopt the resolution as proposed. It is requested that the Board of Supervisors consider the Commission's recommendations, conduct a public hearing, and upon close of the public hearing: (1) conduct a first reading and intent to adopt the ordinance; and (2) adopt the proposed resolution.

PROCEDURAL REQUIREMENTS

1. Open Public Hearing;
2. Staff report;
3. Public comments;
4. Close Public Hearing;
5. Motion, second, discussion and vote to find the resolution amending the County Policy Manual exempt from CEQA and adopt the resolution;
6. Clerk reads the ordinance Title;
7. Motion, second, discussion and vote to waive the balance of the reading of the ordinance;
8. Motion, second, discussion and vote on adoption of the ordinance and find it consistent with General Plan.

FISCAL IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Providing a courtesy notice upon project submittal, and expansion of the noticing radius will result in nominal additional staff and resource costs to the Planning Division. The Department Fee Resolution requires Planning Division staff time and material costs expended processing private development applications to be funded by the development application fees. The application types that will be subject to this expanded noticing protocol are presently in a category of permit types which are charged fees based on actual staff time and materials costs. All additional staff time and material costs necessary to perform the expanded noticing will therefore be passed directly onto the permit applicant.

Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	Although additional staff time and material costs will be charged to private development applications, there is a distinct possibility that overall project costs may be reduced by expanding public notices and involving the public earlier in project processing. Complaints of insufficient notice on past projects have led to project delays, continued hearings, multiple public hearings, and late arrive public comments, all of which result in increased staff time and material costs passed onto applicants.
Is the general fund affected?	No
Future fiscal impact:	Once adopted, this ordinance and policy will remain in full force in future years unless repealed or otherwise amended. Future year fiscal impact will be consistent with current budget year impact, consisting of nominal changes to development application permitting fees borne by applicants.
Consequences if not approved:	If the ordinance and/or resolution are not adopted, current noticing practices would remain, which are consistent with State law and are otherwise legally adequate. The County would however likely continue to field public concern that private development application noticing is insufficient.
Additional Information:	

ENVIRONMENTAL IMPACT

General Rule. 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. The proposed Ordinance and Resolution expand noticing requirements for pending developing entitlement requests and thus have no potential to result, either directly or indirectly, in a change to the environment. [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)].

BACKGROUND AND DISCUSSION

The frequency of neighbor concerns regarding extent of public notice provided on private development proposals subject to Planning Commission review has increased. Between April 2013 and April 2014, 43 "new" private development projects were heard by the Planning Commission with 11 of those projects involving at least one neighbor expressing concern that notice was insufficient and/or the applicant or staff should have contacted neighbors earlier in the process. In many of those cases, neighbors were upset that applications had been on file for months yet they learned of the project only weeks, or sometimes days, prior to the hearing. In all of the cases where complaints were received, the County's notice complied with the current noticing requirements set forth in the County Code, which are consistent with the minimum noticing requirements set forth in State law. This led to Planning Commission and Board of Supervisors Study Sessions in May 2014 where direction was given to expand noticing from 300 ft. to 1,000 ft. from project sites, and to provide a courtesy notice within a short period after an application is submitted to the County.

CURRENT NOTICING PRACTICES

Zoning Ordinance Section 18.136.040 contains the current noticing requirements for Planning Commission and Board of Supervisor level actions. Similar noticing requirements apply for staff-level actions except that publishing in the newspaper is not required for minor administrative permits, such as fences, entry structures, home

occupations and minor modifications that are Categorically Exempt under CEQA. Noticing for Commission and Board of Supervisors public hearing items includes the following:

State and County Code Requirements:

- | Notice mailed and published in newspaper:
 - 10 days in advance for Categorically Exempt projects;
 - 20 days for Negative Declarations;
 - 30 days for Negative Declarations requiring State Clearinghouse review.
- | Notice mailed to all property owners within 300 ft. of subject property.
- | Notice provided to any persons who have previously requested notice of all hearings.
- | Notice to each public agency providing public services to the project.

Administrative Practices:

- | Notice extended to all property owners on shared private drive/road to a project site.
- | Notice provided to known owner and/or homeowner associations when applicable.
- | Any customer may join email group list for Commission's public notices, and Commission packet notification that occurs one week prior to all hearings
- | Any person requesting notice of pending project added to the mailing list

County Code also states (Section 18.136.040.E) that the "...Commission may give notice of the hearing in any other manner it deems necessary or desirable." This section is generally applied only on large scale projects like Napa Pipe, or on policy documents like the Housing Element or General Plan.

PROPOSED NOTICING UPDATES

The proposed ordinance and resolution will result in the following changes to noticing practices:

Ordinance Change: Although several sections of the County Code require updating, the proposed ordinance text amendment will simply expand noticing to surrounding property owners from 300 ft. to 1,000 ft. from the boundaries of the subject property. The minimum period of time for noticing will not change, and current County Code and State Law noticing requirements will continue as set forth above. The expanded noticing will apply to discretionary land use actions subject to review and approval by the Planning Commission or Zoning Administrator. This includes Use Permits, Major Use Permit Modifications, Zoning Administrator level Minor Use Permit Modifications, new or major modifications to Telecommunication Facilities, Zoning Text and/or Map Amendments, Appeals of land use entitlement decisions, Certificates of Legal Nonconformity, major Viewshed Applications and Variances. Expanded noticing will not apply to staff-level and administrative level permits such as Cottage Food Permits, Home Occupation Permits, Fence and Entry permits, minor/administrative Viewshed applications, staff-level Road and Street Standards Modifications, Very Minor Use Permit Modifications, and minor Certificates of Legal Nonconformity.

This ordinance also does not alter existing noticing requirements for Lot Line Adjustments, Tentative Parcel Maps and Subdivision Maps, which would remain at 300 ft. radius requirement. However, it should be noted that most tentative parcel map and tentative subdivision map applications would include some form of companion application, like a use permit, which would trigger the 1,000 ft. mailing radius requirement. In addition, as noted below, in the event the Board of Supervisors ultimately adopts the pending update to the County's Local Procedures for Implementing CEQA, any tentative parcel map or subdivision map subject to a negative declaration or environmental impact report would be subject to the expanded noticing.

Policy Manual Resolution: The attached resolution would add a new policy to the Planning Division's administrative procedures obligating staff to send out a courtesy notice to all property owners within the 1,000 ft. radius and along a shared private drive shortly after a new project is submitted to the department for review. This notice would generally occur within two weeks of project submittal and be distributed concurrent with the request for comments sent to referral agencies and departments. This "notice of pending project" would be in addition to the formal legal notice required by State Law. The intent behind this early notice is to inform interested property owners as close as possible to the commencement of the County's review of the request.

NAPA COUNTY'S LOCAL GUIDELINES FOR IMPLEMENTING CEQA UPDATE

Separate from this ordinance and policy manual update, staff is moving forward with an update of the County's Local Procedures for Implementing the California Environmental Quality Act which includes updating noticing requirements for Environmental Impact Reports and Negative Declarations to expand noticing to a minimum 1,000 ft. radius. The Commission's hearing of the proposed change to the CEQA procedures was set to coincide with the hearing on this ordinance and resolution, but was delayed in order to provide additional time for stakeholder input on the overall document. It is anticipated that the CEQA procedures will be heard by the Commission on December 17, 2014, and a recommendation forwarded to the Board of Supervisors in January. In the event the Commission and Board of Supervisors enact the proposed CEQA procedures update, the noticing requirements for Erosion Control Plans that are subject to negative declarations, mitigated negative declarations or environmental impact reports would also be expanded from 300 ft. to 1,000 ft.

SUPPORTING DOCUMENTS

- A . Proposed Ordinance (Redlined)
- B . Proposed Ordinance (Clean)
- C . Proposed Resolution
- D . Correspondence

CEO Recommendation: Approve

Reviewed By: Molly Rattigan