



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 2/3/2015
Agenda Placement: 9B
Set Time: 9:15 AM PUBLIC HEARING
Estimated Report Time: 10 Minutes

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Steven Lederer - Director of Public Works
Public Works
REPORT BY: Rick Marshall, Deputy Director of Public Works - Engr - (707) 259-8381
SUBJECT: Ordinance Updating Lot Line Adjustment and Certificate of Compliance Ordinances

RECOMMENDATION

First reading and intention to adopt an ordinance amending various sections of Chapter 17.46 (Lot Line Adjustments), Section 17.51.020 (Voluntary Mergers - Application Requirements) and various sections of Chapter 17.52 (Certificates of Compliance).

ENVIRONMENTAL DETERMINATION: 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. [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)].

(CONTINUED FROM NOVEMBER 25, 2014; STAFF REQUESTS ITEM BE DROPPED TO BE BROUGHT BACK AT A FUTURE DATE)

EXECUTIVE SUMMARY

Chapter 17.46 of the Napa County Code governs the processing of applications for lot line adjustments. Chapter 17.51 governs the process for voluntary mergers, and Chapter 17.52 pertains to certificates of compliance. Minor changes are proposed in all three areas to clarify requirements and improve customer service.

These changes were originally introduced to the Board June 10, 2014, at which time the Board directed staff to conduct public outreach prior to returning for action on the ordinance. Staff conducted stakeholder outreach and received feedback on the proposed changes in July, 2014. In August, staff prepared and circulated responses to the feedback received from stakeholders. The attached ordinance incorporates those changes which resulted from the public outreach process.

PROCEDURAL REQUIREMENTS

1. Open Public Hearing.

2. Staff reports.
3. Public comments.
4. Close Public Hearing.
5. Clerk reads the Ordinance Title.
6. Motion, second, discussion and vote to waive the balance of the reading of the ordinance.
7. Motion, second, discussion and vote on intention to adopt the ordinance.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: 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. [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)].

BACKGROUND AND DISCUSSION

Chapter 17.46 of the Napa County Code governs the processing of applications for lot line adjustments. Chapter 17.51 governs the process for voluntary mergers, and Chapter 17.52 pertains to certificates of compliance. Minor changes are proposed in all three areas to clarify requirements and improve customer service.

These changes were originally introduced to the Board June 10, 2014, at which time the Board directed staff to conduct public outreach prior to returning for action on the ordinance. The minor change to Chapter 17.51 (Voluntary Mergers) was included within the same agenda item which discussed the proposed changes to the lot line adjustment ordinance; a separate agenda item presented the proposed changes to the certificate of compliance ordinance. At that time, there was potential that these topics might be combined with other code changes, so these topics were introduced in this configuration to keep all options open. Since that time, Public Works staff determined that no other code changes are currently being brought forward, so it has been decided that the lot line adjustment/voluntary merger updates and the certificate of compliance updates could be combined into one ordinance for the Board's action, and that is what is before the Board today.

Staff conducted stakeholder outreach and received feedback on the proposed changes in July, 2014. In August, staff prepared and circulated responses to the feedback received from stakeholders. The attached ordinance includes those changes which resulted from the public outreach process.

The proposed ordinance for the Board's consideration is attached, in both "clean" and "tracked" formats. Additionally, the summary of stakeholder feedback and staff responses is attached for the Board's reference. Following here is the Background section from each of the staff reports on the June 10th agenda.

Lot Line Adjustments (text from June 10, 2014 staff report)

In December, 2009, the Board adopted numerous updates to the Lot Line Adjustment Ordinance, primarily intended to clarify the County's approach to processing "sequential" lot line adjustments and to confirm the status of these as ministerial approvals. Prior to that, the most-recent update of this ordinance had occurred in 2002, to

respond to significant changes in the state legislation which governs the lot line adjustment process (notably, the limitation of four or fewer parcels).

Since 2009, staff have been implementing the provisions of the last update and have identified some additional changes which will further clarify requirements and improve customer service. With today's agenda item, staff would like to preview the proposed changes for the Board's review, and request direction to conduct public outreach to affected stakeholders.

Summary of Proposed Changes

1. Lot Line Adjustments are processed by the Department of Public Works, specifically under the authority of the County Surveyor. As a function of the departmental reorganization in 2012, numerous changes were made to various County codes to clarify which department, and specifically which authority, were appropriate in the new organizational plan. One change is proposed to catch one reference to "public works" which should be "county surveyor" which was missed in 2012.
2. The code includes requirements for property owners to indicate their consent to the filing of a Lot Line Adjustment Application. One change is proposed to clarify the specific requirements which apply when the owner is a corporation, LLC, LP, etc. This change is intended to improve customer service by documenting existing office policy.
3. As noted above, state law limits Lot Line Adjustment applications to four or fewer parcels. One change recommended is to have staff check for compliance with this basic requirement at the time of application submittal, and to offer applicants an opportunity to remedy noncompliance (if possible) during the application completeness review period.
4. One requirement of the existing code is for staff to determine whether any existing mortgage, deed of trust or other security interest will encumber only a portion of any of the proposed adjusted lots. This requirement has been a function of the "approval standards" (Section 17.46.040) which must be satisfied prior to receiving tentative approval from the County Surveyor. However, in practice, staff have determined that it would better conform to the business practice of financial institutions to require this review and compliance to occur during the final processing. That is, after an applicant has received tentative approval by satisfying the rest of the approval standards, then they can go work with their financial institution to revise these documents concurrent with the preparation of the deeds which will be used to consummate the adjustment. Changes are proposed which move this requirement from one section to the other, and which modify (with the new section number) references to this requirement in other places.
5. An existing requirement is that parcels which equal or exceed minimum size requirements will not be reduced below those minimums through the adjustment process. One change recommended is to require applicants to submit technical "closure" calculations to verify the existing and proposed parcel sizes when they are extremely close to the minimum size thresholds. This change is intended to improve customer service by documenting existing office policy.
6. It is a requirement of the existing code that parcels which will utilize individual sewage disposal systems (i.e., septic) will equal or exceed the minimum size requirements for this. The intent is to not create any parcels which cannot be built upon because they cannot meet the area requirements for septic systems. However, there have been some applications which involved developed parcels already served by legally-permitted septic systems. Environmental Health staff feel that it is appropriate to permit these parcels to be adjusted, as long as they do not get smaller, and they continue to retain a leach field expansion area. One change is proposed to address this scenario.
7. Another septic-related requirement of the existing code is that if parcels greater than 10 acres are reduced below this size, they have to meet certain requirements in Title 13. One change is proposed to clarify that these requirements also apply to a parcel already below 10 acres which is being further reduced. The change also highlights Title 13 requirements which must be addressed in the deeds effecting the lot line adjustment. This change is intended to improve customer service by documenting existing office policy.
8. The code establishes timing requirements for action on the part of Lot Line Adjustment applicants.

Following tentative approval, they must submit deeds for final processing within 275 days, and they must complete the processing of those deeds and record them within 365 days of tentative approval. Some applicants have experienced difficulty meeting these requirements when working with their financial institutions on the modifications noted in #4 above, especially when those institutions, (or at least their legal departments), are located out of state and unfamiliar with California and Napa County codes and timing requirements. One change proposed is to enable the County Surveyor to grant a one-time 45-day extension for recording the deeds in this situation.

9. Another situation which has been challenging some applicants is to have the 275 days and the 365 days running even while their applications' tentative approval has been appealed. One change proposed is to provide for tolling of these time periods in this situation.
10. A provision of the 2009 update was to provide notice of Lot Line Adjustment denials or tentative approvals to any person who files a written request, in addition to those parties who are notified due to adjacency or distance from a particular project site. Since the approval or denial of a Lot Line Adjustment is a ministerial action, there is effectively no basis for anyone other than a directly-affected party (i.e., applicant or adjacent/nearby property owner) to have a cause for appeal. The process for generating these additional notices to other parties who have requested them has proven to be extremely time-consuming for staff, resulting in additional expense for project applicants for no substantial benefit. Changes were proposed to eliminate the provision for persons to file these requests, and the related provision that these requests are valid for one year at a time. ***[November 25, 2014 staff report update: based on feedback during the stakeholder outreach process, this change is no longer being recommended.]***
11. One additional provision of the 2009 update was to streamline the process for a property owner to voluntarily merge two or more legal parcels. Formerly known as a "Minor Lot Line Adjustment" and included within Chapter 17.46 of the code along with the rest of the Lot Line Adjustment ordinance, in 2009 this process was retitled "Voluntary Merger" and codified in a new Chapter 17.51. The code requires the submittal of three copies of the application map, as has always been the case for Lot Line Adjustments; staff have identified that for this simpler process there is only a need for two copies to be submitted. One change is proposed to accomplish this reduction.
12. Finally, the code for Voluntary Mergers requires the applicant to submit the deed for finalizing the merger, after tentative approval, just as is done with Lot Line Adjustments. Staff has identified the opportunity to streamline the process by having this submitted at the time of application, because in the case of a parcel merger the review is so much simpler that one additional processing "loop" may be eliminated.

Certificates of Compliance (text from June 10, 2014 staff report)

The Certificate of Compliance Ordinance has been revisited on several occasions over the last decade. The majority of these changes represented minor technical revisions and added language to clarify the administrative practices that the Department of Public Works has in place to process these applications.

The proposed revisions outlined below represent a continued effort to allow for more efficient processing of these applications, to align the language and intent of this ordinance with that of the Subdivision Map Act, and to clarify and condense ordinance language that was found to be overly complicated. With today's agenda item, staff would like to preview the proposed changes for the Board's review, and request direction to conduct public outreach to affected stakeholders.

Summary of Proposed Changes

1. The existing code lacks consistency when referencing certificates or conditional certificates. Throughout the ordinance formatting, wording, and grammatical changes are proposed to provide this consistency and

allow for easier understanding of the ordinance.

2. An existing provision of the code (Section 17.52.020(B)) is that upon completion of processing an application, the applicant is due a refund of any funds remaining within 10 working days. Staff has found that 10 working days does not provide enough time to close out, route, and finalize a refund therefore it is recommended that twenty working days be allowed for this processing. This section also references a subdivision of this ordinance that no longer exists and needs to be omitted.
3. A more substantial proposed change is to Section 17.52.020, specifically in reference to the determination and denial of a certificate and the continued processing as a conditional certificate. Currently, applicants are informed of the denial and the nature and date of the violation upon which the determination is based; applicants are then given the option to terminate processing of the application as a conditional certificate. Staff has found that this allowance results in applications that lie in limbo with no resolution on record (in the form of a recorded certificate) regarding parcel legality. Discussion with Counsel and review of the Subdivision Map Act (specifically Sections 66499.35, 66499.36 and 66412.6) finds that the issuance of a certificate is mandated by the statute, therefore staff recommends that the option to terminate processing be eliminated from this ordinance.
4. Finally, the code regarding satisfaction of conditional certificate references, "a building permit or other grant of approval for the development or use of the property." Staff recommends that the term 'or use' be omitted from this ordinance to reflect, verbatim, the language that is found in the Subdivision Map Act, Government Code Section 66499.35(b).

SUPPORTING DOCUMENTS

None

CEO Recommendation: Approve

Reviewed By: Molly Rattigan