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Agenda Date: 2/4/2020  
Agenda Placement: 10B

## NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

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**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:** Amendment to Local Procedures for Implementing the CEQA

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### **RECOMMENDATION**

Director of Planning Building and Environmental Services requests adoption of a resolution amending Napa County's Local Procedures for Implementing California Environmental Quality Act ("CEQA"), to bring it into conformance with the Small Winery Protection and Use Permit Streamlining Ordinance.

**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**

The proposed revision would bring the Napa County Local Procedures to Implement the CEQA ("Procedures") into conformance with the draft Small Winery Protection and Use Permit Streamlining Ordinance ("ordinance"). The current Procedures exempt Very Minor and Minor Modifications of existing use permits in conformance with Section 18.124.130 of the County Code. The new ordinance allows for a much greater range of possible changes to existing wineries to be considered by the Zoning Administrator or Planning, Building, and Environmental Services (PBES) Director than previously allowed. Depending on the site-specific circumstances of each project, some of the Minor Modifications allowed under the ordinance may not be exempt from CEQA.

The proposed amendment to the Procedures

### **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 & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?

No

County Strategic Plan pillar addressed:

Livable Economy for All - Collaboratively design systems and structures that promote a diverse and stable economy, with livable wages.

Action Item 9.H. Protect family-owned businesses, local wineries, and small farmers as a vital part of the economy, including preservation of the small vineyard exemption.

### **ENVIRONMENTAL IMPACT**

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 the Implementation of the California Environmental Quality Act, Title 14 CCR Section 15061(b)(3).

### **BACKGROUND AND DISCUSSION**

Napa County's Local Procedures for Implementing the California Environmental Quality Act ("Procedures") were first adopted in 2004, and have been amended in 2006, 2010, and 2015.

The Procedures as currently adopted include Appendix B: Additional Categorical Exempt Projects in Napa County. Appendix B provides for five classes of exemption, including Class 1: Existing Facilities. Item No. 3 under Class 1 states:

- | Very Minor and Minor modifications of existing use permits in conformance with Section 18.124.130 of the County Code.

As currently written, Section 18.124.130 of the Code describes the process for consideration of Very Minor and Minor Modifications of Use Permits, as follows:

- | The Zoning Administrator may approve minor non-controversial modifications to project design or permit conditions which do not affect the overall concept, density, intensity or environmental impact of, or substantially alter or delete any environmental mitigation measure for the project. Examples include

changes in location and/or size of approved structures that do not exceed twenty-five percent in size or one story in height.

- | The PBES Director may approve very minor, non-controversial modifications to approved use permits such as: additions of covers over previously approved pads; small (less than ten percent) changes in square footage or building footprint; realignment of internal circulation roads; an extension of use permit expiration time not to exceed one year; and similar items at the discretion of the Director.

On January 28, 2020, the Board of Supervisors approved a motion of intent to adopt the Small Winery Protection and Use Permit Streamlining Ordinance ("Ordinance"). The Ordinance includes a number of procedural changes related to the processing of winery use permits, including the following:

- | Defines additional categories of Minor Modifications to a Use Permit that may be approved by the Zoning Administrator; and
- | Creates a new category of administrative modifications for wineries that may be approved by the Director.

The Ordinance specifically amends Section 18.24.130 to define Minor Modifications of winery Use Permits to include:

1. Number of permitted employees up to a total of ten or up to ten percent, whichever is greater;
2. Total number of vehicle trips up to forty Average Daily Trips (ADT) or twenty round trips;
3. Wine production up to 30,000 gallons annually or ten percent over the existing approved amount;
4. Number of marketing events up to eleven per year;
5. Days of operation, where there is no increase in visitation;
6. Total building footprint by a maximum of ten thousand square feet or twenty-five percent, whichever is greater; and
7. Addition of a high-risk kitchen, where a permitted low- or medium-risk kitchen already exists.

Depending on the site-specific circumstances associated with a particular winery, one or more of the above actions allowed under a Minor Modification may be subject to CEQA, however, could be treated as exempt under the adopted Procedures.

To address this issue, staff recommends the following changes to the Procedures:

**Amend Appendix A: Ministerially Exempt Projects in Napa County to add the following:**

- | 32. Administrative permits for wineries pursuant to Napa County Code section 18.126.065.

This would recognize that the list of actions listed under Administrative Permits in 18.126.065 would continue to be considered exempt from CEQA. These include:

- a. Interior remodels consistent with the accessory to production ratio in Section 18.104.200;
- b. Outdoor shade structures over previously approved winery areas, not to exceed 2,500 square feet;
- c. Charging stations for electric vehicles;
- d. Changes to existing recycled water systems;
- e. Enclosures for trash receptacles;
- f. Covers over previously approved crush pads;
- g. Changes to existing storm water control systems;
- h. Changes or additions of permanent tanks that do not increase overall production;
- i. Bicycle facilities;

- j. Temporary construction trailers;
- k. Changes in the occupancy of a winery cave, that do not increase visitation or marketing;
- l. Changes or connection to municipal water systems, that do not increase overall water use or groundwater demand;
- m. Changes to existing wastewater treatment systems, that do not increase capacity;
- n. Changes in the hours of operation, between 9:00 am and 6:00 pm;
- o. Removal of conditions of approval regarding custom crush facilities;
- p. Extensions of use permit expiration;
- q. Designation of on-site wine consumption areas, that do not increase visitation or marketing;
- r. Changes in parking or internal roads and driveways;
- s. Additions or changes to landscaping, that do not increase overall groundwater use;
- t. Additions or changes to low- and medium-risk kitchens where food service has been previously approved, that do not increase visitation or marketing; and
- u. Increases in building square footage by no more than ten percent, not to exceed 2,500 square feet.

These actions are all considered exempt from CEQA under the State Guidelines (14 CCR §15300 et seq.) Categorical Exemptions Class 1 ("Existing Facilities"); Class 3 ("new Construction or Conversion of Small Structures"); Class 4 ("Minor Alterations to Land") and the General Rule [14 CCR 15061(b)(3)].

**Amend Appendix B; Additional Categorically Exempt Projects in Napa County to make the following change:**

- l. Revise No. 3 under Class 1 ("Existing Facilities") to read as follows: "Very Minor and Minor modifications of existing use permits in conformance with Section 18.124.130(B) and (F) of the County Code. This section does not apply to modifications to winery use permits."

The proposed revision ensures that Very Minor and Minor modifications to non-winery Use Permits would remain exempt under the Procedures, while providing for CEQA analysis of Minor Modifications to winery Use Permits when applicable and appropriate.

Staff recommends that the Board adopt the proposed resolution amending the Procedures.

**SUPPORTING DOCUMENTS**

- A . Attachment A - Local Procedures for Implementing CEQA (redline)
- B . Attachment B - Resolution to Amend the Local CEQA Procedures

CEO Recommendation: Approve

Reviewed By: Leigh Sharp