



A Tradition of Stewardship  
A Commitment to Service

Agenda Date: 9/14/2010

Agenda Placement: 7S

## NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

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**TO:** Board of Supervisors  
**FROM:** Laura Anderson for Robert Westmeyer - County Counsel  
County Counsel  
**REPORT BY:** Susan Ingalls, Paralegal - 259-8152  
**SUBJECT:** Lot Line Adjustment Ordinance (2nd Reading)

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### **RECOMMENDATION**

Second reading and adoption of an ordinance making technical changes to the procedures for lot line adjustments and certificates of compliance by amending Section 17.46.020 of Chapter 17.46, and Section 17.52.010 of Chapter 17.52 of the Napa County Code to clarify which lot line adjustment applications are ministerial and requiring preliminary title reports to be included in applications for 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)].

### **EXECUTIVE SUMMARY**

Chapter 17.46 and other sections of the Napa County Code pertaining to lot line adjustments were last amended in 2009 in an effort to address and correct various ambiguities as well as to codify the Board's position regarding sequential lot line adjustments. Through the application of the newly-amended Lot Line Adjustment Ordinance, staff discovered that the ordinance as written did not clearly reflect the Board's intent regarding the processing of lot line adjustment applications when they are processed concurrently with an application for a use permit or other discretionary permit involving some or all of the property involved in the lot line adjustment. The amendment clarifies that the lot line adjustment application does not lose its ministerial nature even though it is being evaluated as a reasonably foreseeable project associated with the actual discretionary project.

Staff also proposes a minor amendment to the certificate of compliance ordinance which will require as part of any application for a certificate that the applicant submit a preliminary title report not more than 60 days old.

**FISCAL IMPACT**

Is there a Fiscal Impact?                      No

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

**BACKGROUND AND DISCUSSION**

On December 18, 2009, after holding numerous stakeholder meetings and public hearings, the Board of Supervisors adopted Ordinance No. 1331, declaring, among other things, that most lot line adjustment applications are ministerial.

Section 17.46.020 of Ordinance No. 1331 provides that the tentative approval of lot line adjustments and subsequent review and approval of deeds are ministerial acts and not subject to CEQA; except that the tentative approval of lot line adjustments are discretionary and subject to CEQA when, (a) the lot line adjustment requires a variance pursuant to Section 17.46.040(C)(6); or (b) is processed concurrently with a related application for a use permit or other discretionary approval.

The Board's intent in adopting Ordinance No. 1331 was to treat all lot line adjustment applications as ministerial and exempt from CEQA, except in those rare cases when discretion is required to be exercised by waiving the requirements of Section 17.46.040(C)(5) (which deals with parcels bisected by public roads) or Section 17.46.040(C)(6) (which calls in the parcel design standards of the Zoning Ordinance by reference).

The Board further intended that where a lot line adjustment, which is ministerial, is processed concurrently with an application for a use permit or other discretionary permit involving some of or all of the property involved in the lot line adjustment, the lot line adjustment application will retain its ministerial character. Some members of the community have argued that the existing language found in Ordinance No. 1331 was intended to convert the lot line adjustment in such a case from ministerial to discretionary, due to the concurrent processing of a discretionary permit. In reviewing the recording from the Board's adoption of Ordinance No. 1331, it is clear that the Board intended to have lot line adjustment applications be "subject to CEQA" when they are processed concurrently with another discretionary permit such as a use permit. However, it does not appear that the Board intended for those limited lot line adjustment applications that are "subject to CEQA" to themselves be converted from a ministerial action into a discretionary action.

The purpose of this Ordinance is in part to clarify the intent of Ordinance No. 1331, such that where a lot line adjustment is processed concurrently with an application for a use permit or other discretionary permit involving some or all of the property involved in the lot line adjustment, the lot line adjustment application will be "subject to CEQA" and evaluated as a reasonably foreseeable project in the CEQA document prepared for the underlying discretionary permit; however, the lot line adjustment application itself will retain its ministerial character.

Additionally, staff proposes a minor amendment to section 17.52.010 of the certificate of compliance ordinance, to require as part of any application for a certificate that the applicant submit a preliminary title report not more than 60 days old. A current title report aids staff in reviewing the legality of a parcel for which a certificate is sought as well as allowing staff to review what documents are recorded on the parcel. Historically, the Department of Public

Works has required an applicant for a certificate of compliance to submit a preliminary title report as demonstrated by the Department's application completeness checklist; however, the requirement of a preliminary title report is not reflected in section 17.52.010. This amendment will provide the Department of Public Works the statutory authority to require a current title report for all applications for certificates of compliance.

On August 24, 2010, the Board opened the public hearing and introduced the ordinance. The Board directed staff to modify Section 17.46.020. Subsequent to that action, the Board introduced the ordinance, waived the reading of the balance of the ordinance, and declared its intention to adopt the ordinance as introduced and as revised. The ordinance is now before the Board for formal adoption. County Counsel recommends adoption of the Ordinance.

### **SUPPORTING DOCUMENTS**

A . Ordinance

CEO Recommendation: Approve

Reviewed By: Britt Ferguson