



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 11/18/2009

Agenda Placement: 9B

Napa County Planning Commission Board Agenda Letter

TO: Napa County Planning Commission
FROM: John McDowell for Hillary Gitelman - Director
Conservation, Development & Planning
REPORT BY: Hillary Gitelman, Director - 253-4805
SUBJECT: Vacation Rentals Ordinance - P09-00485-ORD

RECOMMENDATION

VACATION RENTAL ORDINANCE - ZONING ORDINANCE TEXT AMENDMENT P09-00485-ORD

CEQA Status: It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. The project will not impact an environmental resource of hazardous or critical concern, has no cumulative impact, there is no reasonable possibility that the activity may have a significant effect on the environment due to unusual circumstances, will not result in damage to scenic resources, is not located on a list of hazardous waste sites, cause substantial adverse change in the significance of a historical resource or extract groundwater in excess of the Phase 1 groundwater extraction standards as set by the Department of Public Works. [See Class 5 ("Minor Alterations in Land Use Limitations") which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15305; see also Napa County's Local Procedures for Implementing the California Environmental Quality Act, Appendix B.] The project is also covered by the 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)].

Request: County-sponsored ordinance to clarify the County's prohibition on short term vacation rentals except in commercial zoning districts by clarifying the definition of a "dwelling unit" and adding a new section 18.104.410 explicitly prohibiting transient commercial occupancies of dwelling units.

Ordinance Title: AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NAPA, STATE OF CALIFORNIA, AMENDING SECTION 18.08.260 DEFINING DWELLING UNIT AND ADDING A NEW SECTION 18.104.410 PROHIBITING TRANSIENT COMMERCIAL OCCUPANCIES OF DWELLING UNITS TO THE NAPA COUNTY CODE

Staff Recommendation: That the Planning Commission conduct a public hearing and forward a recommendation of approval to the Board of Supervisors

Staff Contact: Hillary Gitelman, 253-4805, hgitelman@co.napa.ca.us

EXECUTIVE SUMMARY**Proposed Action:**

1. That the Planning Commission recommend to the Board of Supervisors that they find the proposed ordinance exempt from review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15305 (Class 5 Categorical Exemption) as provided by Napa County's Local Guidelines for Implementing CEQA, and pursuant to the General Rule (CEQA Guidelines Section 15061(b)(3)) that CEQA does not apply where it can be seen with certainty that there is no possibility of a significant impact.
2. That the Planning Commission recommend to the Board of Supervisors that they find the proposed ordinance consistent with the Napa County General Plan for the reasons articulated in this staff report and adopt the proposed ordinance.

Discussion:

Unincorporated Napa County has a limited number of legally permitted hotels, B&Bs, and other guest accommodations. A quick web search will reveal that the County also has quite a few informal vacation rentals, where property owners are renting their homes, second units, and guest houses as tourist or guest accommodations in violation of the County's zoning regulations. The Napa County Board of Supervisors has expressed an interest in improving the effectiveness of code enforcement efforts aimed at eliminating illegal vacation rentals. The proposed ordinance would clarify and update the existing prohibition on vacation rentals (except in Commercial zoning districts) by clarifying that creative ownership strategies (e.g. timeshares, vacation "clubs," etc.) are not "dwelling units" and by explicitly prohibiting transient commercial occupancy of dwelling units.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. The project will not impact an environmental resource of hazardous or critical concern, has no cumulative impact, there is no reasonable possibility that the activity may have a significant effect on the environment due to unusual circumstances, will not result in damage to scenic resources, is not located on a list of hazardous waste sites, cause substantial adverse change in the significance of a historical resource or extract groundwater in excess of the Phase 1 groundwater extraction standards as set by the Department of Public Works. [See Class 5 ("Minor Alterations in Land Use Limitations") which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15305; see also Napa County's Local Procedures for Implementing the California Environmental Quality Act, Appendix B.] The project is also covered by the 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

The Napa County General Plan and zoning ordinance permit at least one dwelling unit on every legal parcel that is zoned for agriculture or residential use. In these zoning districts, commercial uses are prohibited, and property owners who rent their dwelling units as short term vacation rentals (a commercial use) do so in violation of Napa County Code. The County has consistently prohibited short term vacation rentals because commercial activities can conflict with legally permitted uses (e.g. agriculture), can create a nuisance for residential neighbors, and removes housing stock from residential use at a time when Napa County has unmet housing needs.

The Napa County Board of Supervisors has long expressed an interest in improving the effectiveness of code enforcement efforts aimed at eliminating illegal short term vacation rentals, and in June 2009 adopted a Housing Element Update which included Program H-1c: "...the County's code enforcement program will assign high priority to abatement of illegal vacation rentals, ensuring that existing dwelling units are used as residences, rather than tourist accommodations."

In the past year, the Conservation, Development & Planning Department has used a three-prong approach to this issue, including (1) outreach to property owners; (2) stepped-up enforcement efforts; and (3) development of code changes clarifying the County's longstanding prohibition on short term vacation rentals. Items (2) and (3) have been undertaken in collaboration with staff in the District Attorney's office and County Counsel's office, and item (3) has resulted in the current draft ordinance (attached).

Development of the proposed ordinance has taken many months, and involved meetings with key stakeholders, including realtors and land use attorneys working in unincorporated Napa County. Input received on earlier versions of the ordinance was helpful in focusing on the most important clarifications, ensuring that the proposed changes are direct and to the point, and will provide for easier enforcement and additional penalties.

The proposed changes to County Code would clarify existing provisions of the Code, since dwelling units that are leased for less than one month have long been considered illegal vacation rentals, subject to code enforcement actions, violation abatement, and civil penalties. Because the proposed changes would clarify, rather than change, the County Code, they would have no physical environmental impacts, and are considered exempt from CEQA. They are also consistent with and implement the Napa County General Plan. (See memo attached.)

SUPPORTING DOCUMENTS

- A . Vacation Rental Ordinance
- B . CEQA & GP Memo
- C . Correspondence

Napa County Planning Commission: Approve

Reviewed By: John McDowell