



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 11/19/2014

Agenda Placement: 9C

Napa County Planning Commission Board Agenda Letter

TO: Napa County Planning Commission

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

REPORT BY: John McDowell, Deputy Planning Director - 299-1354

SUBJECT: Public Hearing Noticing Requirements Ordinance Text Amendment

RECOMMENDATION

PUBLIC NOTICING REQUIREMENTS ZONING ORDINANCE TEXT AMENDMENT

CEQA Status: 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: Proposal to expand required mailed public notice for Planning Commission and Zoning Administrator level land use entitlement requests from the current requirement of all properties within 300 ft. of a project site, to all properties within 1,000 ft. of a project site. In addition to the ordinance, changes to administrative procedures are proposed to provide a notice of pending development application within generally 14 days of initial project submittal to the County.

Ordinance Title: AN ORDINANCE OF THE BOARD OF SUPERVISORS OF NAPA COUNTY, STATE OF CALIFORNIA, 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), AND 18.136.040 (PUBLIC HEARING BEFORE COMMISSION - NOTICE)

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

Staff Contact: John McDowell, 299-1354 or john.mcdowell@countyornapa.org

EXECUTIVE SUMMARY**Recommendation:**

That the Planning Commission recommends:

1. That the Board of Supervisors find the proposed ordinance exempt from review under the California Environmental Quality Act (CEQA) pursuant to the General Rule (CEQA Guidelines Section 15061(b)(3));
2. That the Board of Supervisors find the proposed ordinance consistent with the Napa County General Plan and adopt the proposed ordinance;
3. That the Board of Supervisors adopt the proposed resolution updating the County Policy Manual in regard to noticing newly submitted projects.

Discussion:

In recent times there has been an increasing frequency of neighbor complaints that public noticing for development proposals subject to Planning Commission review are insufficient. 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 of enhancing 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 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.

Attached to this report is a proposed ordinance change, prepared by County Counsel, that expands the noticing radius from 300 ft. to 1,000 ft. from a project site for all projects subject to Planning Commission or Zoning Administrator review. Also attached is a resolution that would update the County Policy Manual stipulating that staff will provide a 'notice of pending project' generally within two weeks of a new project submittal to the County. 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. It is requested that the Planning Commission conduct a public hearing and forward a recommendation for approval of the two documents to the Board of Supervisors.

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. 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 been increasing in recent times. 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 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 County Code requiring 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 Agricultural Preserve Contracts, 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 does not alter existing noticing requirements for Lot Line Adjustments, Tentative Parcel Maps and Subdivision Maps, which would remain at a 300 ft. radius requirement. However, it should be noted that most Tentative Parcel Maps, which are a relatively rare occurrence in post Measure J Napa County, and virtually any potential subdivision map, 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 adopts the currently 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 expanding noticing.

Policy Manual Resolution: The attached resolution would add a policy to the Planning Division's administrative procedures obligating staff to send out a courtesy notice to all property owners on the 1,000 ft. radius and along a shared private drive shortly after a project a new project is submitted to the department for review. This notice would generally occur within two weeks of a 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 is being delayed in order to provide additional time for stakeholder input on the overall document. This is noteworthy because the CEQA update will expand noticing for Erosion Control Plans which are processed without hearings before the Planning Commission or Zoning Administrator. It is anticipated that the CEQA procedures will be heard by the Commission on December 17, 2014, after additional stakeholder input occurs. In the event the Commission and Board of Supervisors enact the proposed CEQA procedures update, Erosion Control Plans for projects requiring Negative Declarations and Environmental Impact Reports would be subject to the same noticing requirements recommended above for discretionary projects subject to Planning Commission and Zoning Administrator review.

SUPPORTING DOCUMENTS

- A . Proposed Ordinance
- B . Proposed Resolution

Napa County Planning Commission: Approve

Reviewed By: Charlene Gallina