



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 9/7/2011

Agenda Placement: 9B

Napa County Planning Commission Board Agenda Letter

TO: Napa County Planning Commission

FROM: Melissa Gray for Hillary Gitelman - Director
Conservation, Development & Planning

REPORT BY: Hillary Gitelman, Director - 253-4805

SUBJECT: Landmark Preservation Ordinance Update

RECOMMENDATION

LANDMARK PRESERVATION ORDINANCE UPDATE, COUNTY-INITIATED ZONING TEXT AMENDMENTS P10-00377-ORD

CEQA Status: In accordance with CEQA and the State CEQA Guidelines (Sections 15168), the County is proposing to use the program level Environmental Impact Report (EIR) for the General Plan Update (SCH# 2005102088, certified June 2008) as the EIR for the Landmark Preservation Ordinance Update. As discussed in a separate memorandum and checklist (initial study) dated August 15, 2011, this approach is consistent with CEQA and the State CEQA Guidelines because (1) the proposed update is within the scope of the General Plan approved in 2008, and (2) the program EIR prepared for the General Plan Update adequately describes the activity for purposes of CEQA. In addition, (3) the County has not identified any changes in the General Plan, changes in circumstances under which the General Plan Update was adopted, or new information of substantial importance that would necessitate subsequent environmental review pursuant to CEQA Guidelines Section 15162. A copy of the General Plan Update EIR may be reviewed during business hours at the offices of the Department of Conservation, Development and Planning, 1195 Third Street in Napa or on the County's website, www.countyofnapa.org.

Request: Recommend adoption of two County-sponsored ordinances and one resolution. The first ordinance would update the procedures and standards for the preservation and rehabilitation of historic buildings when property owners voluntarily apply for landmark designation, allow five historic farm centers and grange halls to be used as special event venues with non-commercial food service, and provide tax incentives for the rehabilitation and reuse of historic residences and agricultural buildings. The second ordinance would allow qualified historic buildings constructed as commercial/resort buildings to be rehabilitated and reused for their historic use or for uses allowed in either the Commercial Limited (CL) or the Commercial Neighborhood (CN) zoning district upon issuance of a use permit and project-specific environmental review under CEQA. The resolution would establish a Mills Act tax incentive program for qualified historic resources. Both ordinances and the accompanying resolution would implement action items included in the General Plan Update of 2008.

Titles of Ordinances:

1. **AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NAPA, STATE OF CALIFORNIA, AMENDING CHAPTER 15.52 (LANDMARK PRESERVATION) AS IT RELATES TO THE DESIGNATION AND DISPOSITION OF HISTORIC RESOURCES IN NAPA COUNTY**
2. **AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NAPA, STATE OF CALIFORNIA, AMENDING CHAPTER 15.52 (LANDMARK PRESERVATION) AS IT RELATES TO THE DESIGNATION AND DISPOSITION OF COMMERCIAL AND RESORT HISTORIC RESOURCES IN NAPA COUNTY AND MAKING RELATED AMENDMENTS TO CHAPTER 18.124 (USE PERMITS) AND CHAPTER 18.132 (LEGAL NONCONFORMITIES) AND ADDING A NEW SECTION 18.104.430 ENTITLED NAPA COUNTY LANDMARKS ADAPTIVE REUSE - FINDINGS**
3. **A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NAPA, STATE OF CALIFORNIA APPROVING A MILLS ACT PROGRAM TO IMPLEMENT THE MILLS ACT (CALIFORNIA GOVERNMENT CODE SECTION 50280, ET SEQ.) IN THE COUNTY OF NAPA AND DIRECTING PREPARATION OF A HISTORIC PRESERVATION ORDINANCE**
hillary.gitelman@countyofnapa.org.

Staff Recommendation: Recommend that the Board of Supervisors find that the proposed project falls within the scope of the General Plan Program EIR and adopt the proposed ordinances and resolution.

Staff Contact: Linda St. Claire, 299-1348, linda.stclaire@countyofnapa.org or Hillary Gitelman, 253-4805.
hillary.gitelman@countyofnapa.org.

EXECUTIVE SUMMARY**Proposed Action:**

That the Planning Commission recommend that the Board of Supervisors:

1. Find the proposed project within the scope of the General Plan Update program-level EIR for the reasons stated in the accompanying memo and initial study;
2. Adopt the two proposed ordinances; and
3. Adopt the proposed resolution.

Discussion:

The purpose and intent of the proposed Landmark Preservation Ordinance Update is to update the procedures and standards for the preservation and rehabilitation of historic buildings when property owners voluntarily apply for landmark designation and to provide incentives for landmark designation and rehabilitation/reuse of historic buildings. An important premise of the update is that Napa County has many historic buildings that are worthy of recognition and preservation. Another premise is that the incentives needed to encourage landmark designation and rehabilitation/reuse of historic resources will vary based on the type of historic resource involved. For this reason, the first ordinance would allow historic farm centers and grange halls to be reused as event venues, and would offer tax incentives to property owners of historic residences, school houses, barns, and other agricultural buildings if they agree to maintain their properties as designated Napa County landmarks. The first ordinance would also reiterate and cross reference (but not amend) existing incentives for historic "ghost" wineries, which qualify for reduced parcel sizes and setbacks.

The second ordinance would permit property owners of historic commercial/resort buildings to apply for a use

permit to allow the historic buildings to be reused for their historic use or for uses permitted in the Commercial Limited (CL) or Commercial Neighborhood (CN) zoning districts following site-specific environmental review. County staff and consultants have estimated that there are approximately 10 potential historic resources that could qualify for this incentive, although some already have CL zoning and thus would not directly benefit.

The proposed ordinance would implement action items included in the General Plan Update of 2008. Community Character Action Item CC-19.2 calls on the County to improve the procedures and standards to provide for the preservation and appropriate rehabilitation of significant resources, and to incorporate incentives for historic preservation. Action Item CC-28.1 in the General Plan calls on the County to establish a discretionary process whereby owners of qualified historic buildings within agricultural areas of the County may apply for permission to reuse their building for their historic use or a compatible new use as long as the use is compatible with agriculture and the historic building is rehabilitated and maintained in conformance with the U.S. Secretary of the Interior's Standards.

The County initiated text amendments amend Chapter 15.52 of the County's Landmark Preservation Code as well as related sections of the Zoning Code (Chapter 18). The Landmark Preservation Code has not been amended since 1990 and needs to be updated to reflect best practices in historic preservation, including creation of the California Register.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

In accordance with CEQA and the State CEQA Guidelines (Sections 15168), the County is proposing to use the program level Environmental Impact Report (EIR) for the General Plan Update (SCH# 2005102088, certified June 2008) as the EIR for the Landmark Preservation Ordinance Update. As discussed in a separate memorandum and checklist (initial study) dated August 15, 2011, this approach is consistent with CEQA and the State CEQA Guidelines because (1) the proposed update is within the scope of the General Plan approved in 2008, and (2) the program EIR prepared for the General Plan Update adequately describes the activity for purposes of CEQA. In addition, (3) the County has not identified any changes in the General Plan, changes in circumstances under which the General Plan Update was adopted, or new information of substantial importance that would necessitate subsequent environmental review pursuant to CEQA Guidelines Section 15162. A copy of the General Plan Update EIR may be reviewed during business hours at the offices of the Department of Conservation, Development and Planning, 1195 Third Street in Napa or on the County's website.

BACKGROUND AND DISCUSSION

On March 2, 2011, the Planning Commission conducted a public hearing on a proposal to update the County's Landmark Preservation Ordinance and requested changes to the draft ordinance. Specifically, the Commission asked staff to revise the ordinance so that it would offer more incentives to more historic resources, instead of proposing a "test" aimed at two specific properties. The Commission also asked staff to address comments from members of the public who spoke at the meeting to the extent possible. Consistent with the Commission's direction, planning staff has worked with County Counsel to broaden the original ordinance, and is now proposing a collection of incentives in two ordinances and one resolution.

The first proposed ordinance (Ordinance Number 1) would apply to all parcels in Napa County with potential historic buildings because it contains standards and procedures for designating Napa County Landmarks. In addition, Ordinance Number 1 allows for the use of five farm centers and grange halls identified by name and provides incentives for the designation and rehabilitation/reuse of certain types of historic buildings (e.g. residences, barns, etc.). The five farm centers and grange halls are owned by: Executive Committee of Rutherford Grange Number 371; Tucker Farm Center Corporation; Welcome Grange Number 791 & Unity Church of Napa; Rene DiRosa Trust; and the Pope Valley Farm Center.

The second proposed ordinance (Ordinance Number 2) would apply to properties that contain historic buildings that were first constructed and used as commercial buildings or resorts. In a focused survey conducted in May and June of 2011, staff and consultants concluded that there are approximately 10 such properties in the unincorporated County, although three of them are already zoned Commercial Limited (CL), and thus would not be affected by the ordinance. (A list of the properties, with their parcel numbers, zoning, General Plan land use designation, and ownership is attached.)

The proposed resolution to establish a Mills Act program in the County would apply County-wide to eligible historic buildings.

Planning staff held two stakeholder meetings, one on April 25th and one on June 9th, and reported on the status of outreach and planning efforts at a Planning Commission meeting on June 15, 2011. Since then, planning staff has continued to meet with interested members of the public and outstanding issues/concerns are summarized below.

Napa County's Historic Resources

Napa County was a leader statewide in the use of agricultural preserves, which not only protected agriculture from encroachment by urban uses but also retained the open, agricultural character of the county. In the course of preserving agricultural land and open space, historic and cultural resources have also been retained. Outside of its urban centers, Napa County's built environment contains historic remnants of its agricultural past such as farmsteads, barns, wineries, grange halls, water tanks, and walls. In addition, there are historic spas and resorts, mines and mine roads, and picturesque stone bridges and landscapes (including historic vineyards).

While the historic significance of many of these features cannot be denied, the only comprehensive inventory of historic resources in unincorporated Napa County dates from 1978, and is out of date. State and federal registers contain incomplete listings, and as of 2007 there are only three formally designated Napa County Landmarks: the DiRosa Preserve, located at 5200 Sonoma Highway; Trubody Ranch, located at 5444 Trubody Lane; and the August Hirsh Winery at 3199 St. Helena Highway North.

To prepare an updated, comprehensive survey would be a time-consuming and potentially costly endeavor. Also, because older buildings in rural areas (such as residences, barns, etc.) are not always visible from public roads, it could be challenging to find and evaluate all potentially significant buildings. Nonetheless, the Department of Conservation, Development & Planning retained the services of two local consultants to update the portion of the 1978 survey that addressed commercial and resort buildings. The updated evaluations are available for review at the Planning Department during regular business hours (contact Linda St. Claire at linda.stclaire@countyofnapa.org) and on the County's website. In all, approximately 10 properties have been identified as being potentially eligible for local landmark status, and could make use of the incentive offered in Ordinance 2 following site-specific environmental review. Three of the resources are already zoned CL, however, and would gain little from the ordinance.

Proposed Ordinances and Resolution

The first ordinance (Ordinance 1) would update the procedures and standards for the preservation and appropriate rehabilitation of historic buildings when property owners voluntarily apply for landmark designation. The ordinance also contains incentives for the rehabilitation and reuse of certain types of historic buildings which are considered significant to the County's agricultural heritage by (1) allowing farm centers and grange halls to be used as a matter of right as meeting halls and special event venues; (2) allowing the owners of historic residences, residentially-scaled properties like churches and school houses, and agricultural buildings, other than wineries, to apply for tax incentives if their building is designated a landmark; and (3) referencing pre-existing incentives for historic "ghost" wineries.

The second ordinance (Ordinance 2) would build upon the first and offer an additional incentive to the owners of historic buildings that were constructed and used as commercial buildings or resorts. Owners of these buildings could concurrently apply for landmark designation and for a use permit to allow the buildings to be used for their historic use or for any use allowed in the CL or CN zoning districts. Specific findings would be required and the proposed use could not be more intense than the historic use or the uses allowed in the CL or CN, whichever is less. Also, site-specific environmental review would be required, and constraints such as water supply, wastewater treatment, and parking would be likely to limit the intensity of use further.

The proposed resolution would establish a "Mills Act" tax incentive program allowing property owners to enter into contracts with the County. The contract would provide a tax reduction in exchange for preservation and maintenance of a County landmark. To minimize fiscal impacts to the County, only three buildings per year could be considered for the program and only certain types of buildings (e.g. residences) would be eligible.

A copy of the proposed ordinances (in tracked changes) and the resolution are attached for the Commission's review and reference.

CEQA Compliance

In accordance with CEQA and the State CEQA Guidelines (Sections 15168), the County is proposing to use the program level Environmental Impact Report (EIR) for the General Plan Update (SCH# 2005102088, certified June 2008) as the EIR for the Landmark Preservation Ordinance Update. As discussed in a separate memorandum and checklist (initial study) dated August 15, 2011, this approach is consistent with CEQA and the State CEQA Guidelines because (1) the proposed update is within the scope of the General Plan approved in 2008, and (2) the program EIR prepared for the General Plan Update adequately describes the activity for purposes of CEQA. In addition, (3) the County has not identified any changes in the General Plan, changes in circumstances under which the General Plan Update was adopted, or new information of substantial importance that would necessitate subsequent environmental review pursuant to CEQA Guidelines Section 15162. A copy of the General Plan Update EIR may be reviewed during business hours at the offices of the Department of Conservation, Development and Planning, 1195 Third Street in Napa or on the County's website.

General Plan and Zoning Consistency

The County's General Plan includes a number of policies encouraging the preservation of historic resources. These policies support the identification and preservation of resources from Napa County's historic and prehistoric periods (Policy CC-19), and encourage the County to offer incentives for the appropriate rehabilitation and reuse of historic buildings. The policies also support dissemination of information regarding incentives available at the state and federal level, such as applying the State Historic Building Code (SHBC) when building modifications are proposed, use of federal historic preservation tax credits for qualified rehabilitation projects, and use of income tax deductions for qualified donations of historic preservation easements. (Policy CC-27). The proposed ordinances and resolution advance the following goals and policies of the Napa County General Plan:

- Goal CC-4: Identify and preserve Napa County's irreplaceable cultural and historic resources for present

and future generations to appreciate and enjoy.

- Policy CC-17: Significant cultural resources are sites that are listed in or eligible for listing in either the National Register of Historic Places or the California Register of Historic Resources due to their potential to yield new information regarding prehistoric or historic people and events or due to their intrinsic or traditional cultural value.
- Policy CC-18: Significant historical resources are buildings, structures, districts, and cultural landscapes that are designated Napa County Landmarks or listed in or eligible for listing in either the National Register of Historic Places or the California Register of Historic Resources. Owner consent is a prerequisite for designation as a County Landmark.
- Policy CC-19: The County supports the identification and preservation of resources from the County's historic and prehistoric periods.
- Action Item CC-19.2: Consider amendments to the County zoning and building codes to improve the procedures and standards for property owner-initiated designation of County Landmarks, to provide for the preservation and appropriate rehabilitation of significant resources, and to incorporate incentives for historic preservation.
- Policy CC-24: Promote the County's historic and cultural resources as a means to enhance the County's identity as the nation's premier wine country and a top tourist destination, recognizing that "heritage tourism" allows tourists to have an authentic experience and makes good business sense.
- Goal CC-5: Encourage the reuse of historic buildings by providing incentives for their rehabilitation and reuse.
- Policy CC-26: Projects which follow the Secretary of the Interior's Standards for Preservation Projects shall be considered to have mitigated their impact on the historic resource.
- Policy CC-27: Offer incentives for the appropriate rehabilitation and reuse of historic buildings and disseminate information regarding incentives available at the state and federal level. Such incentives shall include but are not limited to the following: a) Apply the State Historical Building Code when building modifications are proposed. b) Reduce County building permit fees when qualified preservation professionals are retained by applicants to verify conformance with the SHBC and the Secretary of the Interior's Standards. c) Use of the federal historic preservation tax credit for qualified rehabilitation projects. d) Income tax deductions for qualified donations of historic preservation easements.
- Policy CC-28: As an additional incentive for historic preservation, owners of existing buildings within agricultural areas of the County that are either designated as Napa County Landmarks or listed in the California Register of Historic Resources or the National Register of Historic Places may apply for permission to reuse these buildings for their historic use or a compatible new use regardless of the land uses that would otherwise be permitted in the area so long as the use is compatible agriculture, provided that the historic building is rehabilitated and maintained in conformance with the U.S. Secretary of the Interior's Standards for Preservation Projects. This policy recognizes that, due to the small number of existing historic building in the County and the requirement that their historic reuse be compatible with agriculture, such limited development will not be detrimental to the Agriculture, Watershed or Open Space policies of the General Plan. Therefore, such development is consistent with all of the goals and policies of the General Plan.

The proposed zoning code text amendments effectively update the County Code so that it is consistent with other jurisdictions throughout the state of California that have voluntary landmarks designation ordinances.

They would also provide incentives as called for in the General Plan, with different incentives for different types of historic buildings. The incentive offered to historic commercial/resort buildings that are designated as landmarks would require a use permit (which in turn requires site-specific environmental review) and specific findings that would avoid conflicts with agriculture and increases in the intensity of use (beyond historic levels or levels allowed in the CL and CN, whichever is less). This zoning text change would effectively create a new category of legal non-conforming use that would not be "voluntarily abandoned" if the building was vacant for six months or more, as with most legal non-conforming uses.

Measure P

The incentive for commercial and resort buildings is proposed as a separate ordinance so that the Board of Supervisors may place the ordinance on the ballot for consideration by the voters if they wish. Planning staff believes that the ordinance does not require voter approval pursuant to Measure P (2008) because it would not redesignate land or amend the General Plan, and would instead allow existing buildings to be reused following site-specific planning and analysis, and only if their reuse is affirmatively found to be compatible with agriculture. Nonetheless, the Board could elect to place the ordinance on the ballot for consideration by the voters.

Outstanding Issues & Concerns

Since the Commission's meeting on June 15, 2011, the proposed ordinances have been revised to incorporate commenter's suggestions about the intensity of use allowed in historic commercial/resort properties. As a result, the second ordinance would permit qualified buildings to be used for their historic use or any new use that would be allowed in the CL or CN zoning district, however the intensity of use would be limited to the historic intensity or the intensity allowed in the CL/CN, *whichever is less*. Intensity is measured by the number of rooms in the case of overnight accommodations, the number of seats in the case of restaurants, and square footage in the case of other commercial uses. Thus, each applicant would have to present the County with specific information about the historic intensity of use of their building as part of their use permit application, and the County could only issue a use permit if the finding could be made that the intensity of use did not exceed historic levels.

On June 15, 2011, other commenters suggested that the reuse of historic farm centers and grange halls as special event venues only be allowed as long as the buildings are owned and operated by non-profits. This approach is not feasible since zoning is a form of land use regulation and cannot regulate property ownership.

Alternatively, planning staff researched whether there is some way that the use could be contingent on membership in an organization like the National Grange. This approach would be feasible. According to the National Grange website, membership in the National Grange supports the efforts to protect farming at Congress and State Legislature levels. The membership rate is low, typically \$25 for an individual. The owners of the five farm centers and grange halls were queried about this idea, and two responded that they were open to the possibility of joining the association or a similar organization. One noted that their historic resource was never formally a "grange hall," but rather functioned as a social center and meeting hall.

Planning staff also considered a suggestion that the ordinance set a maximum number of "special events" that could be held per year "by right" in these facilities, and require a use permit if the property owner would like to exceed that number. This suggestion implies that some category of events would fall within the normal meetings and activities of the grange halls and farm centers, and that some other category of events -- perhaps building rentals or social events -- would be considered "special" and would therefore be limited. Representatives of two local granges/farm centers responded to an email query by stating that setting a maximum number of events would be impractical given the varying needs of the communities that rely upon them at a minimal cost versus the high costs of maintenance of the buildings. Setting limitations could also have the effect of discouraging a site's active, community serving activities if there was confusion about which activities were normal and which were "special." Implementing either of these two suggestions would require amendments to Ordinance 1.

Planning staff was asked whether there are other jurisdictions with similar ordinances and staff queried other California counties and found that many offer incentives such as Mills Act contracts, and some offer incentives that involve modifications to zoning standards (e.g. setbacks, landscaping requirements, etc.) Of the Counties responding to the query, only Ventura and Santa Clara Counties have ordinances that permit historic buildings to be reused for their historic use (Ventura) or for a limited number of other uses (Santa Clara).

Attachments

The CEQA document, proposed ordinances and resolution are attached along with a summary of the entire proposal, a summary and list of potentially eligible commercial and resort properties, and the text of Measure P.

SUPPORTING DOCUMENTS

- A . Summary
- B . Ordinance Number 1 (Track Changes)
- C . Ordinance Number 2 (Track Changes)
- D . Mills Act Resolution
- E . Measure P (approved by the voters in 2008)
- F . List of Commercial/Resort Properties
- G . CEQA Document
- H . Public Comments

Napa County Planning Commission: Approve

Reviewed By: Melissa Gray