



SUMMARY REPORT

Agenda Date: 2/25/2020

To: Sonoma County Board of Supervisors
Department or Agency Name(s): Permit Sonoma
Staff Name and Phone Number: Milan Nevajda, 565-2336
Vote Requirement: Majority
Supervisorial District(s): All

Title:
ORD19-0008 Development Agreements Ordinance

Recommended Action:

Find that the proposal is exempt from CEQA and adopt an ordinance amending Sonoma County Code to add Sections 26-100-010 through 26-100-120 governing Development Agreements.

Executive Summary:

Development Agreements (DAs) are detailed contracts entered into by the County and a developer on specific terms associated with a development proposal. DAs define a project's scope and the rules, regulations, commitments, and policies that apply to the project for a specific period of time. A State law requires jurisdictions to adopt DA policies and procedures at the request of a developer. Permit Sonoma is pre-emptively proposing DA regulations so that a DA can be used as a planning tool. A DA strengthens the planning process by encouraging creativity and flexibility while ensuring compliance with comprehensive planning goals. For developers, a DA ensures that entitlements are secured for a preset term, thereby giving certainty. In exchange for this certainty, the County is able to secure public benefits beyond those that are required through ordinances and other policies. On December 5, 2019 the Planning Commission adopted a Resolution recommending the Board of Supervisors adopt the proposed Ordinance.

Discussion:

State law (California Government Code Sections 65864 - 65869.5) authorizes cities and counties to enter into DAs and establishes general rules for their governance. State law requires that DAs are consistent with adopted General Plans and Area or Specific Plans, include periodic annual reviews, and that adopted DAs are recorded. The law also requires that jurisdictions must adopt policies and procedures for processing DAs at the request of a developer. While Permit Sonoma has not received a request for a DA, the department is pre-emptively seeking to establish rules and procedures for DAs so that the County is prepared for any future requests.

The format and language of each DA will be established by staff and County counsel in the context of the specific application. All DAs must address the required provisions as stipulated in the proposed Ordinance, notably the application requirements and the findings for approval. DA negotiations typically involve considerable counsel involvement on behalf of both the applicant and County. County expenses associated with forming a DA would be covered by the applicant through fees on an at-cost basis; the fee schedule for DAs will be presented to the Board of Supervisors for adoption at a future date.

The proposed ordinance delineates the requirements and process for the application, review, and approval of DAs. The ordinance requires that the Planning Commission consider whether a proposed DA substantially conforms with the General Plan and any adopted Area or Specific Plans. The Planning Commission has the authority to recommend approval or denial of the DA, with the Board of Supervisors holding final decision-making authority for a proposed DA. Following adoption, a DA is recorded and is valid through the applicable term stipulated in the agreement.

Consistent with State law, the proposed ordinance requires that DAs are reviewed annually. Under this review, the developer must demonstrate good faith compliance with the terms of the DA. If the DA is being processed in accordance with the Agreement, the Permit Sonoma Director shall determine as such. Should the Director identify non-compliance with the Agreement, the DA will be presented to the Planning Commission and possibly the Board of Supervisors, pursuant to the proposed Section 26-100-120, for review consider amending or terminating the agreement.

The Planning Commission held a hearing on December 5, 2019 to review the recommended draft Ordinance. There were seven speakers at the hearing; affordable housing advocates supported DAs as a critical tool that helps secure financing for housing projects and helps address site development challenges. Public comments included concerns that DAs could allow for developer abuse or circumvention of the County's policies. The proposed ordinance provides procedures and policies regulating DAs and is not a specific DA proposal. Staff advises that the findings for DA approval (Section 26-100-080) in the proposed Ordinance provide clear procedures and evaluation criteria to ensure that projects are appropriate and that commensurate public benefits are provided when the Board considers DAs. Furthermore, Permit Sonoma drafted the proposed Ordinance after reviewing other jurisdictions' approaches to regulating DAs. The proposed Ordinance is consistent with regulatory best practice.

At the Planning Commission hearing on the proposed Ordinance, staff identified and requested one non-substantive edit to Section titling in the draft Ordinance, which has been included in the proposed Ordinance before your Board. The Commission voted 5-0 to recommend that the Board of Supervisors adopt the Ordinance as amended with staff's non-substantive edit.

Prior Board Actions:

Not Applicable

FISCAL SUMMARY

Not Applicable

Narrative Explanation of Fiscal Impacts:

Not Applicable

Narrative Explanation of Staffing Impacts (If Required):

Not Applicable

Attachments:

ATT 1: Draft Development Agreements Ordinance

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ATT 2 EX A: Draft Development Agreements Ordinance Exhibit A

ATT 3: Final Planning Commission Resolution dated December 5, 2019

ATT 4: Planning Commission Staff Report

ATT 5: December 5, 2019 Planning Commission Action Report

Related Items “On File” with the Clerk of the Board:

Development Agreement Manual, Institute for Local Self Government