



County of Sonoma
Permit & Resource Management Department

Sonoma County Planning Commission

STAFF REPORT

FILE: ORD19-0008

DATE: December 5, 2019

TIME: At or after 1:20

STAFF: Amy Lyle, Supervising Planner

SUMMARY

APPLICANT: County of Sonoma

LOCATION: Countywide

SUPERVISORIAL DISTRICTS: All

DESCRIPTION: A Zoning Code Amendment adopting procedures and requirements for consideration of Development Agreements

CEQA REVIEW: Exempt from the California Environmental Quality Act pursuant to Cal. Code Regulations, Title 14, §15061(b)(3) exempting activities where it can be seen with certainty that there is no possibility that the activity may have an adverse effect on the environment.

ORDINANCE REFERENCE: Sonoma County Code Chapter 26-100-010 to -080

RECOMMENDATION: Adopt a resolution recommending the Board of Supervisors adopt a Zoning Ordinance Amendment establishing Chapter 26-100, with procedures and requirements for approving Development Agreements.

EXECUTIVE SUMMARY: Development Agreements (DAs) are detailed contracts entered into by the County and a developer to define specific terms associated with a development proposal. The DAs define a project's scope and the rules, regulations, commitments, and policies that apply to the project for a specific period of time. Overall, the purpose of the DA is to strengthen the public planning process by encouraging creativity and flexibility to achieve comprehensive planning goals, while providing regulatory and fiscal assurance to a prospective developer. For developers, the advantage of a DA is that entitlements can be locked in for a prescribed time, thereby providing the developer/investor certainty over what local rules and regulations will govern their project going forward. A DA reduces the risks associated with development; as a result the County has the ability to obtain public benefits beyond those that could be gained through existing ordinances and regulations.



ANALYSIS

Background

State law (California Government Code Sections 65864 – 65869.5) authorizes cities and counties to enter into DAs and establishes general rules for their governance. Key requirements include that DAs must be consistent with the General Plan and any Area or Specific Plan, periodic annual reviews of the DA are required, and adopted DAs must be recorded.

Individual DAs are to be adopted by Ordinance consistent with Government Code Sections 65867.5, and therefore require at least one public hearing before the Planning Commission and Board of Supervisors. Any amendments or extensions to the agreement would follow this same process.

Other jurisdictions that utilize this tool include Santa Rosa, Sebastopol, and Petaluma, and the Counties of Humboldt and Santa Cruz. Many communities utilize DAs as a tool to negotiate contributions greater than what could otherwise be obtained through normal exactions or conditions of approval. Developers find them useful because they provide greater certainty in the development of large or complex projects. DAs have been used successfully in other jurisdictions to facilitate affordable housing projects, large-scale mixed use projects, or projects with multiple phases. As a mechanism to support affordable housing, DAs can help address major infrastructure challenges that currently may pose major impediments to development in the County's growth areas. For instance, under a DA, the developer of a larger project could agree to finance the up-front cost of major infrastructure installation with provisions in the agreement allowing the developer to be reimbursed over time for the initial financial outlay.

Per Government Code §65865(c), the County is obligated to establish procedures and requirements for the consideration of DAs when requested by an applicant. To date, the County has not received such a request, however several projects in early design phases have expressed a desire to negotiate towards a DA; other policy projects underway at the County, including the Sonoma Developmental Center Specific Plan and the Airport Industrial Area Specific Plan, are also contemplating DAs as a mechanism to support projected buildouts. Staff recommends the adoption of basic procedures and requirements for consideration of future requests. Having a set of procedures will clearly define the process and provide greater transparency and understanding for the public and the DA review.

Proposed Ordinance Overview

The format and language of each individual DA will be established by staff in the context of the specific application in hand so long as the DA addresses all the required provisions as stipulated in the proposed Ordinance. The negotiation of a DA typically involves 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, adopted by the Board of Supervisors.

The draft ordinance delineates the process for the application, review, and approval of DAs. The ordinance requires that the Planning Commission consider whether the DA 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 authority to adopt the final DA. Upon adoption the DA would be recorded.

Consistent with state law, the draft ordinance requires an annual review of DAs. Under this review the developer must demonstrate good faith compliance with the terms of the DA. At this time the Planning Commission or Board of Supervisors will have the opportunity to consider amendment or termination of the agreement.

Environmental Analysis

Adoption of the Ordinance to facilitate development agreements is exempt from the California Environmental Quality Act pursuant to Cal. Code Regulations, Title 14, §15061(b)(3) exempting activities where it can be seen with certainty that there is no possibility that the activity may have an adverse effect on the environment. There is no physical project that associated with this legislative action.

RECOMMENDATIONS

Adopt a resolution recommending the Board of Supervisors adopt a Zoning Ordinance Amendment to add Chapter 26-100 into the County Zoning Ordinance, establishing procedures and requirements for Development Agreements.

1. The proposed amendments to the Zoning Code are exempt from CEQA review under CEQA Guidelines Section 15061(b)(3) (exempting activities where it can be seen with certainty that that there is no possibility that the activity may have an adverse effect on the environment).
2. The proposed amendments to the Zoning Code are consistent and compatible with the Sonoma County General Plan because each Development Agreement is required to be consistent with the General Plan and any Area or Specific Plan.

ATTACHMENTS

- EXHIBIT A: Draft Development Agreement Ordinance Section
EXHIBIT B: Draft Planning Commission Resolution
EXHIBIT C: Development Agreement Manual, Institute for Local Self Government
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