



COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES

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MEMORANDUM

DATE: APRIL 19, 2016

TO: BOARD OF SUPERVISORS

FROM: STEVE DUNNICLIFF, DIRECTOR
MARY LYNN HUNT, SENIOR PLANNER
PLANNING AND BUILDING SERVICES

RE: INFORMATIONAL REPORT ON FORMULA BUSINESS APPROACH

Background:

On September 22, 2015, the Board of Supervisors adopted an urgency ordinance establishing interim restrictions on the establishment of formula businesses pending the study and consideration of zoning and other land use regulations pertaining to such businesses. The moratorium excluded a defined area north of the City of Ukiah.

On November 3, 2015, Planning and Building Services staff reported to the Board of Supervisors that staff was in the process of analyzing and preparing an ordinance amendment to the Mendocino County Code per direction of the Board to regulate the location and operation of formula retail and restaurant businesses within rural communities in the unincorporated County.

Two concepts have been explored by staff but not included as a recommendation. The first of these concepts would seek to protect community character by prohibiting most formula-based businesses within certain areas of Mendocino County. However, it is noted there are local examples of formula businesses that have adapted to communities by utilizing existing structures and architecture without forcing the corporate architecture or corporate theme onto a community or neighborhood. One specific example of a formula business that has been established in conformance with the character of its community is the "Subway" sandwich shop in Hopland. The franchise/business was established within an existing building, and does not resemble the traditional corporate architecture of a typical franchise.

A second concept explored by staff but not currently recommended would require a Conditional Use Permit for formula-based businesses in certain areas of Mendocino County. The purpose of this approach would be to provide a process for staff and decision makers to review proposals and ensure that not only the current development standards are adhered to (i.e. setbacks, height, parking, signage, etc.) but that proposals are also designed to "fit-into" the existing physical and natural environment. This concept would thereby reduce the loss of community character and neighborhood cohesiveness through architecture inconsistent with that of its community. However, it is noted that this approach does not address the problem that might arise if a non-formula business sought to develop or redevelop a site in these community areas in a manner inconsistent with the existing community character.

Current Proposal:

In response to the Board's direction, staff is proposing that a Conditional Use Permit be required for the development of any vacant parcels or lots with certain zoning designations and within certain areas, including the substantial redevelopment of existing structures.

A Community Character Combining District would be created, to be applied on a case by case basis, over any or all of those lands currently zoned C-1 (Limited Commercial) and C-2 (General Commercial). The Community Areas in Mendocino County as defined in Chapter 6 of the General Plan and the Ukiah Valley Area Plan (UVAP) provide a logical platform for initial consideration. These include: Anderson Valley, Covelo, Fort Bragg, Hopland, Laytonville, Potter Valley, Redwood Valley, Willits, Calpella, The Forks, Ukiah and Talmage. The defined area north of the City of Ukiah which is currently excluded from the moratorium will be excluded from any initial proposals from staff. The proposed combining district is not recommended for commercial development on lands that are zoned RC (Rural Community) or that lie within the Coastal Zone, as staff believes that there are appropriate measures currently in place through the existing permit processes to address the placement of such uses.

To protect the character of any communities included in this new district, a Conditional Use Permit would be required for the development of vacant parcels or lots, including the substantial redevelopment of existing structures.

Standard findings must be made before a Conditional Use Permit can be approved. These findings include:

- A. That the establishment, maintenance or operation of a use or building applied for is in conformity to the General Plan;
- B. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided;
- C. That such use will not, under the circumstances of that particular case, constitute a nuisance or be detrimental to health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the county; provided, that if any proposed building or use is necessary for the public health, safety or general welfare, the finding shall be to that effect;
- D. That such use preserves the integrity of the zoning district.

Brief Analysis:

Today, many uses defined in the County's zoning code can be developed "by right" on lands zoned "Commercial" (C1 or C2). This ministerial process allows development to rely on the programmatic California Environmental Quality Act (CEQA) review completed through the General Plan's adoption, triggers relatively low building permit fees, and offers a quick review process. Beyond ensuring consistency with standards in the building and zoning codes, the ministerial process provides limited opportunity for the County to review or condition these projects for consistency with the General Plan. However, this approach provides maximum "certainty" as to the outcome for any member of the public who is pursuing a development project.

A "discretionary" approval process, such as one where a Conditional Use Permit is required, provides an opportunity for a more comprehensive review of a project, but gives less certainty as to outcome as a result. Approval of most discretionary uses requires that an environmental "Initial Study" be written, that a CEQA determination be circulated, and that the project is considered by one or more bodies/commissions/boards. The discretionary process provides maximum opportunity for the County to review and condition projects. The tradeoff to the developer is a slower approval process, increased fees, and less certainty to the final form of what may or may not be allowed.

Staff estimates there are approximately 300 undeveloped parcels within the area that might be covered by the combining district that have Commercial zoning.

For applicable development under the current proposal, it is likely that CEQA review will add some degree of additional studies, time, and expense to the approval process. In addition to any CEQA costs, there is a referral

fee to Sonoma State University of \$75, and a "Fish and Wildlife Filing Fee" for many projects with a current cost of \$2,260. The County's current fee for a Conditional Use Permit is estimated as an additional \$2,260. Finally, the review and approval process for a discretionary approval takes approximately 6-9 months, assuming there is no appeal.

Next Steps:

The Department intends to distribute a brief report to each of the Municipal Advisory Councils, along with a draft ordinance, to solicit their review and comment. Community outreach meetings will be scheduled to occur in Anderson Valley, Redwood Valley, and Laytonville, to advise interested parties and stakeholders of the concept, explain how it would be implemented, and seek comment. The draft ordinance is then expected to be considered by the Planning Commission at their meeting in June 2016. At the pleasure of the Board, direction can be provided to staff, and/or the item could be referred to a standing committee for further discussion, review, or direction prior to this planned public outreach.