
OC DEVELOPMENT SERVICES REPORT

ITEM #1

DATE: May 26, 2021

TO: Orange County Planning Commission

FROM: OC Development Services / Permitting

SUBJECT: An amendment to the County's Land Use/Noise Compatibility Manual, relating to the certification process for Qualified Acoustical Consultants

PROPOSAL: Staff is requesting the Planning Commission consider and adopt a resolution recommending that the Board of Supervisors amend the County's Land Use/Noise Compatibility Manual, Exhibit V-9, Section C relating to the certification process for Qualified Acoustical Consultants. The proposed update would increase the period of certification validity to six (6) years, versus the existing five (5) years and open the certification process every three (3) years, versus the existing five (5) years.

**ZONING/
GENERAL
PLAN:** N/A

LOCATION: Countywide

APPLICANT: OC Development Services

**STAFF
CONTACT:** Judy Kim, Private Property Permits Manager
(714) 667-8866
Email: Judy.Kim@ocpw.ocgov.com

RECOMMENDED ACTION(S):

OC Development Services recommends that the Planning Commission:

- a. Receive staff report
- b. Approve Planning Commission Resolution No. 21-01 (Attachment 1), which:
 1. Finds that the proposed amendment to the County’s Land Use/Noise Compatibility Manual, Exhibit V-9, Section C is not a project per CEQA Guidelines Section 15378; and
 2. Concurs with staff that amendment of the County’s Land Use/Noise Compatibility Manual is necessary to provide greater flexibility in certifying acoustical consultants; and
 3. Recommends the Board of Supervisors adopt the proposed amendment to the County’s Land Use/Noise Compatibility Manual, Exhibit V-9, Section C regarding the expiration and certification process for Qualified Acoustical Consultants. The proposed update would increase the period of certification validity to six (6) years, versus the existing five (5) years and open the certification hearing every three (3) years, versus the existing five (5) years.”

BACKGROUND:

The County’s Land Use/Noise Compatibility Manual (“Manual”) is intended to implement the land use/noise compatibility policies and standards of the County’s General Plan, Noise Element. The Noise Element also establishes specific noise standards. Exhibit V-9, Section C, Qualifications for County Certification of Acoustical Consultants, of the Manual sets forth the process for certification and the expiration date for certifications of acoustical consultants. The Manual states:

“Certification shall be valid for a period of five (5) years. A ‘certification’ year is defined to start on March 1 and end on the last day of February. The period of validity extends automatically to include the month of February following the nominal expiration date. Henceforth, PDSO will schedule rectification (sic) [recertification] hearings at the Planning Commission in January only. It is the Acoustical Consultant’s responsibility to notify PDSO of intent to be re-certified prior to the end of its nominal expiration year, accompanied by a payment of the current rectification (sic) [recertification] fee.”

Since July 1, 1986, the County has only accepted acoustical analysis reports from acoustical consultants certified by the Planning Commission in accordance with the procedures set forth in the Manual. To become a County-certified acoustical consultant, applicants must meet a set of minimum qualifications, as established in the Manual, including a degree in engineering, physics, or a closely related field; at least four (4) years of acoustical engineering experience; a valid Engineer’s license in the State of California; and have previously passed the Institute of Noise Control Engineering (INCE)

professional examination. Once certified by the Planning Commission, the five-year certification period begins on March 1 of the year they were certified.

Any modifications to the manual require the approval of the Director, OC Public Works, the concurrence of the Planning Commission, and adoption by the Board of Supervisors.

DISCUSSION/ANALYSIS:

The certification process for Acoustical Consultants in the Manual does not explicitly define a procedure for recertification other than the length of time (five years) and that the certification hearings should occur in January only. OC Development Services staff have interpreted this to mean certifications only occur every five years and once a new group of consultants are certified, that group becomes the newly certified consultant list and the certification process does not occur again for another five years.

During the most recent certification period (January 2021), staff reached out to all sixteen consultants on the previously certified list (2015-2020 Acoustical Consultants list), informing them the recertification process was approaching and directing them where to obtain information on recertification.

Notice of the upcoming certification or recertification was also posted on the OC Development Services webpage, with links to information on the process and application instructions. Initial response was positive, as staff received three applications within the first week posting in October 2020. Over the next two weeks, however, staff only received one additional application. Before the submission period ended, on November 13, 2020, staff sent a second notification to the twelve consultants who had not yet responded and extended the deadline to apply an additional week. By November 23, 2021, no additional applications had been received. In order to bring the item for consideration at the January Planning Commission meeting date, staff moved forward with the four applications received.

At the certification hearing before the Planning Commission in January 2021, staff described the certification or recertification process and the fact that the process occurred only once every five years. After some discussion among the Planning Commission, commissioners directed that staff explore modifying the certification length and interval for certification or recertification, to provide Development Services staff greater flexibility in maintaining an adequate list of Certified Acoustical Consultants.

Two options proposed by the Commission included reducing both the certification application interval and the length of certification from five years to two years or reducing the certification application interval to two years but only reducing the length of certification from five years to four years. These options were proposed to allow for staggered expiration dates for consultant certifications, which would enable staff to have a more robust list of Certified Acoustical Consultants available at any given time and to provide Acoustical Consultants with more opportunities to submit applications than once every five years.

Staff considered these two options, as well as a number of other scenarios in which the certification validity period and certification hearings would be staggered. While reducing the certification hearing intervals would open the application process to applicants on a more regular basis, historically OC Development Services receives few inquiries for recertification. Feedback from some existing certified consultants indicates that work requiring a Certified Acoustical Consultant is limited, therefore extending the period of validity would offer more opportunity to utilize certified consultants.

Given these factors, staff recommends the Manual be amended to (1) extend the period of validity of the certification from five years to six years thereby offering more opportunity for consultants to be used and encouraging more applicants to apply; (2) open the certification hearing every three years versus the existing five years, thereby offering more opportunities for applicants to request certification from the County.

Because the Manual was adopted by the Board of Supervisors via resolution, any amendments need Board approval following a Planning Commission’s recommendation.

The qualifications/requirements for Certified Acoustical Consultants and as the remainder of the Manual will remain the same, only Exhibit V-9, Section C will be amended.

REFERRAL FOR COMMENT AND PUBLIC NOTICE:

The proposed revisions were reviewed by Development Services Planning and Permitting managers, presented to the Orange County Development Processing Review Committee (DPRC) and shared with Building Industry Association (BIA); at the time of this staff report, no further comments were received.

CEQA COMPLIANCE:

This action is not a project within the meaning of CEQA Guidelines Section 15378 and is therefore not subject to CEQA, since it does not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

CONCLUSION:

OCPW recommends amending the Manual to reduce the certification application interval to three years, and extend the length of certification to six years.

Submitted by:



Laree Alonso, Division Manager
OC Development Services / Permitting

Concurred by:



Amanda Carr, Deputy Director
OC Development Services

Approved by:



James Treadaway, Director
Orange County Public Works

ATTACHMENTS:

1. Draft Planning Commission Resolution No. 21-01
2. Relevant sections of the County of Orange Land Use/Noise Compatibility Manual
3. Proposed text amendments to the County of Orange Land Use/Noise Compatibility Manual (redline version)
4. Proposed text Amendments to the County of Orange Land Use/Noise Compatibility Manual
5. Draft Board Resolution

APPEAL PROCEDURE:

Any interested person may appeal the decision of the Planning Commission on this permit to the Orange County Board of Supervisors within 15 calendar days of the decision upon submittal of required documents and a fee of \$500 filed at the County Service Center, 601 N Ross St., Santa Ana. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this report, or in written correspondence delivered to OC Development Services / Permitting Division.

RESOLUTION NO. 21-01
RESOLUTION OF THE PLANNING COMMISSION OF
ORANGE COUNTY, CALIFORNIA
RECOMMENDING ADOPTION OF PROPOSED LAND USE/NOISE COMPATIBILITY
MANUAL AMENDMENTS TO EXHIBIT V-9, SECTION C

May 26, 2021

On Motion of Commissioner _____, duly seconded and carried, the following Resolution was adopted:

WHEREAS, the Board adopted the Land Use/Noise Compatibility Manual on September 18, 1984; and

WHEREAS, the Board adopted Amendment 93-1 on December 14, 1993 to the Land Use/Noise Compatibility Manual to improve the accuracy in acoustical analysis and reporting; and

WHEREAS, on January 27, 2021, during the Planning Commission's consideration of certification of Acoustical Consultants, the Planning Commission directed staff to explore modifying the certification length and interval for Certification of Acoustical Consultants; and

WHEREAS, OC Development Services has prepared and proposed amendments to the Land Use/Noise Compatibility Manual, Exhibit V-9, Section C, to increase the period of certification validity to six (6) years, versus the existing five (5) years and open the certification process every three (3) years, versus the existing five (5) years; and

WHEREAS, the proposed amendments provide Development Services staff greater flexibility in maintaining an adequate list of Certified Acoustical Consultants; and

WHEREAS, the proposed amendments provide Acoustical Consultants with more opportunities to submit applications for certification; and

WHEREAS, the Planning Commission has reviewed and fully considered proposed Land Use/Noise Compatibility Manual amendments, and has heard and considered the staff report that were presented to it on this project and has determined after review and consideration to recommend adoption of Land Use/Noise Compatibility Manual amendments.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Planning Commission finds that the proposed amendments to the Land Use/Noise Compatibility Manual is not a project per CEQA Guidelines Section 15378.

2. The Planning Commission recommends the Board of Supervisors adopt the proposed amendments, attached hereto as Exhibit A and incorporated as if full set forth herein, to Exhibit V-9, Section C of the County's Land Use/Noise Compatibility Manual.

The foregoing resolution was passed and adopted by the following vote of the Orange County Planning Commission, on May 26, 2021 to wit:

Ayes:

Noes:

Absent:

I HEREBY CERTIFY that the foregoing Resolution No. 21-01 was adopted on May 26, 2021 by the Orange County Planning Commission.

ORANGE COUNTY PLANNING COMMISSION

Richard Vuong,
Executive Officer, Orange County Planning Commission

ATTACHMENTS:

Exhibit A - Proposed text amendments to the County of Orange Land Use/Noise Compatibility Manual

- (d) Written intent to provide acoustical consultation for the unincorporated County territory.
2. The acoustical consultant must include payment of a non-refundable fee of current amount for the processing of the application.
3. Upon review and determination by the Manager, Building Permits Division, that the minimum qualifications have been satisfied, the applicant will be recommended for certification to the Orange County Planning Commission. However, if such review indicates non-satisfaction of the minimum qualifications, the Manager, Environmental Analysis Division shall notify the applicant in writing of his determination and indicate the right to, and process of, appeal.
4. The acoustical consultant will be scheduled for an appearance before the Orange County Planning Commission in which public testimony shall be heard and the Commission shall determine certification or non-certification of the consultant.
5. Upon certification by the Planning Commission, the name of the acoustical consultant shall be placed on the County's "Certified Acoustical Consultants" list.

C. Expiration

Certification shall be valid for a period of ~~five (5)~~ six (6) years. A 'certification' year is defined to start on March 1 and end on the last day of February. The period of validity extends automatically to include the month of February following the nominal expiration date. Henceforth, PDSD will schedule ~~rectification~~ certification hearings at the Planning Commission in January only, every three (3) years. It is the Acoustical Consultant's responsibility to notify PDSD of intent to be re-certified prior to the end of its nominal expiration year, accompanied by a payment of the current ~~rectification~~ Acoustical Consultant Certification fee.

D. Appeals

Any appeal regarding the Director's determination as to satisfaction of minimum qualifications shall be submitted to the Planning Commission for decision. The Commission's decision on such appeal, or on its certification of acoustical consultants, may in turn be appealed to the Board of Supervisors whose decision shall be final.

COUNTY OF ORANGE



LAND USE/NOISE COMPATIBILITY MANUAL

ADOPTED: SEPTEMBER 18, 1984

**AMENDMENT 93-1: DECEMBER 14, 1993
BOARD OF SUPERVISORS RESOLUTION NO. 93-1391**

Land Use/Noise Compatibility Manual
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I. INTRODUCTION

The Purpose of this Land Use/Noise Compatibility Manual is to serve as a ready reference to the mechanisms and procedures that are employed by the County of Orange to implement the land use/noise compatibility policies and the standards of the County's Noise Element of the General Plan. Those implementation programs/mechanisms related to other policies of the Noise Element (e.g., public information of noise health effects, transportation system noise control such as by restrictions on trail bikes and other off-road vehicles, use of quieter aircraft at John Wayne Airport, etc.) are outside the scope of this Manual. The Noise Element contains general policies and establishes specific noise standards to guide the manner in which land use/noise compatibility issues are to be addressed by the Planning Agency (PDSD, the Planning Commission, and the Zoning Administrator). This Manual contains relevant Noise Element excerpts and supporting implementing policies and procedures necessary to insure that Element policy and standards are consistently and effectively carried out during County review of a proposed project.

The Manual will be amended when necessary upon approval of the Director, PDSD, and concurrence of the Planning Commission and adoption by the Board of Supervisors.

- (d) Written intent to provide acoustical consultation for the unincorporated County territory.
- 2. The acoustical consultant must include payment of a non-refundable fee of current amount for the processing of the application.
- 3. Upon review and determination by the Manager, Building Permits Division, that the minimum qualifications have been satisfied, the applicant will be recommended for certification to the Orange County Planning Commission. However, if such review indicates non-satisfaction of the minimum qualifications, the Manager, Environmental Analysis Division shall notify the applicant in writing of his determination and indicate the right to, and process of, appeal.
- 4. The acoustical consultant will be scheduled for an appearance before the Orange County Planning Commission in which public testimony shall be heard and the Commission shall determine certification or non-certification of the consultant.
- 5. Upon certification by the Planning Commission, the name of the acoustical consultant shall be placed on the County's "Certified Acoustical Consultants" list.

C. Expiration

Certification shall be valid for a period of five (5) years. A 'certification' year is defined to start on March 1 and end on the last day of February. The period of validity extends automatically to include the month of February following the nominal expiration date. Henceforth, PDSD will schedule rectification hearings at the Planning Commission in January only. It is the Acoustical Consultant's responsibility to notify PDSD of intent to be re-certified prior to the end of its nominal expiration year, accompanied by a payment of the current rectification fee.

D. Appeals

Any appeal regarding the Director's determination as to satisfaction of minimum qualifications shall be submitted to the Planning Commission for decision. The Commission's decision on such appeal, or on its certification of acoustical consultants, may in turn be appealed to the Board of Supervisors whose decision shall be final.

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RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA

MM DD, 2021

WHEREAS, the Board adopted the Land Use/Noise Compatibility Manual on September 18, 1984; and

WHEREAS, the Board adopted Amendment 93-1 on December 14, 1993 to the Land Use/Noise Compatibility Manual to improve the accuracy in acoustical analysis and reporting; and

WHEREAS, on January 27, 2021, during the Planning Commission's consideration of certification of Acoustical Consultants, the Planning Commission directed staff to explore modifying the certification length and interval for Certification of Acoustical Consultants

WHEREAS, OC Development Services has prepared and proposed amendments to the Land Use/Noise Compatibility Manual, Exhibit V-9, Section C to increase the period of certification validity to six (6) years, versus the existing five (5) years and open the certification process every three (3) years, versus the existing five (5) years; and

WHEREAS, the proposed amendments provide Development Services staff greater flexibility in maintaining an adequate list of Certified Acoustical Consultants; and

WHEREAS, the proposed amendments provide Acoustical Consultants with more opportunities to submit applications for certification; and

WHEREAS, on May 26, 2021, the Planning Commission reviewed and fully considered proposed Land Use/Noise Compatibility Manual amendments recommended adoption by the Board of Supervisors of the proposed amendments to the Land Use/Noise Compatibility Manual.

NOW, THEREFORE, BE IT RESOLVED THAT

1. This Board finds that the proposed amendments to the Land Use/Noise Compatibility Manual is not a project per CEQA Guidelines Section 15378.
2. This Board adopt the proposed amendments, attached hereto as Exhibit A and incorporated as if full set forth herein, to Exhibit V-9, Section C of the County's Land Use/Noise Compatibility Manual.

ATTACHMENTS:

Exhibit A - Proposed text amendments to the County of Orange Land Use/Noise Compatibility Manual

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